



CITY COUNCIL AGENDA

September 26, 2016





BOOKMARK ASSISTANCE

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CITY OF BANGOR CENTRAL SERVICES

CENTRAL.SERVICES@BANGORMAINE.GOV

REGULAR MEETING BANGOR CITY COUNCIL – SEPTEMBER 26, 2016

PLEDGE ALLEGIANCE TO THE FLAG

PUBLIC COMMENT

CONSENT AGENDA ITEM NO.

ASSIGNED TO COUNCILOR

*Explanatory Note: All items listed in the Consent Agenda are considered routine and are proposed for adoption by the City Council by one motion without discussion or deliberation. If discussion on any item is desired any member of the Council or public may merely request removal of the item to its normal sequence in the regular agenda prior to a motion for passage of the Consent Agenda.

MINUTES OF: Bangor City Council Regular Meeting of September 12, 2016, Bangor School Committee Special Meetings of August 17, 2016 and August 29, 2016, Bangor School Committee Regular Meeting of August 27, 2016, Airport Committee Meeting of September 13, 2016, Government Operations Committee Meetings of September 7, 2016 and September 19, 2016, Finance Committee Meeting of September 19, 2016 and Business and Economic Development Committee Meeting of September 7, 2016

Liquor License Renewal: Application for Liquor License Renewal, Malt, Spirituous, Vinous of Massimo's Cucina Italiana, Inc d/b/a Massimo's Pizza Bar, 130 Hammond Street

GRAHAM

Application for Liquor License Renewal, Malt, Spirituous, Vinous of WNC Bangor Company, LLC d/b/a Bangor Airport Four Points by Sheraton, 308 Godfrey Boulevard

GRAHAM

16-349 ORDER Authorizing Execution of Municipal Quitclaim Deed – Real Estate Located at 25 Randolph Drive (Map 069, Lot 031)

DURGIN

Executive Summary: Real estate tax and sewer liens matured on the property of Kenneth and Nancy Milliken of 25 Randolph Drive. All outstanding charges due the City have been paid. There are no property issues. Because the liens matured, a municipal quitclaim is required to release the City's interest in the property.

Staff recommends approval.

16-350 ORDER Authorizing Execution of Municipal Quitclaim Deed – Real Estate Located at 131 Holiday Park (Map R47, Lot 007-A).

SPRAGUE

REGULAR MEETING BANGOR CITY COUNCIL – SEPTEMBER 26, 2016

CONSENT AGENDA ITEM NO.

ASSIGNED TO COUNCILOR

Executive Summary: Real estate tax liens matured on the property of Charles Martin of 131 Holiday Park. All outstanding charges due the City have been paid. There are no outstanding sewer charges or property issues. Because the liens matured, a municipal quitclaim is required to release the City's interest in the property.

Staff recommends approval.

16-351 ORDER Authorizing Execution of Municipal Quitclaim Deed – NEALLEY
Real Estate Located at 147 Fern Street (Map 053, Lot
148).

Executive Summary: Real estate tax liens matured on the property of Lorna Davis of 147 Fern Street. All outstanding charges due the City have been paid. There are no outstanding sewer charges or property issues. Because the liens matured, a municipal quitclaim is required to release the City's interest in the property.

Staff recommends approval.

16-352 ORDER Authorizing the City to Apply for 2016 Assistance to PLOURDE
Firefighter Grant

Executive Summary: This Order will authorize the City to apply for not more than \$25,000 in grant funding to update physical fitness equipment for the City's firefighters. If approved, the grant would update fitness equipment including treadmills at each of the fire stations. A grant award would require a 10% match from the fire department budget, and funding is included in the approved FY 17 Fire Department budget. This was reviewed and recommended for approval by the Government Operations Committee on September 19, 2016.

16-353 ORDER Authorizing Settlement of Workers' Compensation PERRY
Claim

Executive Summary: This Order would authorize the settlement of a workers' compensation claim for David Boudreau, a former Public Works employee. The settlement will provide for a lump sum payment in the amount of \$30,000 which will fully settle any and all claims.

The Finance Committee reviewed and recommended approval of this proposed settlement on September 19, 2016.

16-354 ORDER Authorizing the City Manager to execute an Off-Airport BALDACCI
Car Rental Agreement with Rent-A-Wreck of Bangor to
Provide Car Rental Services

REGULAR MEETING BANGOR CITY COUNCIL – SEPTEMBER 26, 2016

CONSENT AGENDA ITEM NO.

ASSIGNED TO COUNCILOR

Executive Summary: This Order will authorize an agreement with Rent-A-Wreck of Bangor to provide rental cars to Bangor International Airport passengers from its off-airport location. This agreement outlines the procedures, parameters, and payment arrangements for off-airport rentals. In exchange for the right and opportunity to operate an off-airport rental operation, Rent-A-Wreck will pay the airport 7.5% of gross rental revenues derived from airport activities.

If approved, this Order will authorize the City Manager to execute a 5 year agreement with Rent-A-Wreck. The agreement will be in final form as approved by City Legal. This item was reviewed and recommended for approval by the Airport Committee at its meeting on September 13, 2016.

16-355 ORDER

Authorizing the execution of a lease renewal between the City of Bangor and the Maine Highlands for office space within Building 121, of the General Aviation terminal at Bangor International Airport

NEALLEY

Executive Summary: This Order will authorize the execution of a lease renewal with Maine Highlands. Maine Highlands is part of the Maine Tourism Marketing Partnership Program (MTMPP) which develops and implements programs designed to stimulate and expand the travel industry within Maine's tourism regions. It is also intended to strengthen the State's image by coordinating the promotional efforts of the private sector with those of the Office of Tourism.

If approved, the lease includes the following terms: Maine Highlands will lease approximately 203 sf of office space in the General Aviation terminal at a rate of \$235 per month including utility costs; the term of the lease is for one year and includes two (2) one-year renewals. The agreement will be in final form as approved by City Legal. This item was reviewed and recommended for approval by the Airport Committee at its meeting on September 13, 2016.

16-356 ORDER

Authorizing Execution of Modification Agreement for Maine Department of Transportation Local Project – WIN 018645.00, Independent Street and Water Street Traffic Signal Improvements

SPRAGUE

Executive Summary: This order would authorize the City Manager to execute a Local Project Modification Agreement with the Maine Department of Transportation for preliminary engineering and construction work for traffic signal improvements at the intersection of Independent Street and Water Street.

The modification agreement would change the project name from Independence and Water Street Traffic Signal Improvements to read Independent Street and Water Street Traffic Signal Improvements.

No changes have been made to the funds originally agreed upon. The Maine Department of Transportation had approved federal and state funds in an amount not to exceed \$262,543.00 which includes a Federal share of \$210,034.40 or 80% of construction costs, State share of \$26,254.30 or 10% of construction costs, and a City share of funding of \$26,254.30 or 10% of construction costs.

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CONSENT AGENDA ITEM NO.

ASSIGNED TO COUNCILOR

The original agreement was reviewed and recommended for approval by the Infrastructure Committee at its March 24, 2015 meeting and approved by Council on April 13, 2015, Council Order #15-129.

The modification agreement was reviewed and approved by the Infrastructure Committee on September 13, 2016.

16-357 ORDER **Authorizing Execution of a Modification Agreement
for Maine Department of Transportation Local
Project – WIN 021767.00, Improvements to the River
Walk along the Penobscot River.** **NICHOLS**

Executive Summary: This order would authorize the City Manager to execute of a Local Project Modification Agreement in the amount of \$461,630 with the Maine Department of Transportation for design, right-of-way, construction, and construction engineering for reconstruction of 750 feet of waterfront sidewalk behind the Sea Dog Restaurant, and construction of new sidewalk for 180 feet along Front Street.

Under the terms of the modification, the State/Federal contribution will increase the project total to \$461,630 with an increase the State/Federal contribution to \$369,304 (80%) and increase the municipal share to \$92,326 (20%).

The original agreement was reviewed and recommended for approval by the Infrastructure Committee at its April 12, 2016 meeting and approved by the Council on April 25, 2016, Council Order #16-162.

The modification agreement was reviewed and approved by the Infrastructure Committee on September 13, 2016.

16-358 ORDER **Amending the City of Bangor Procurement Policy** **DURGIN**

Executive Summary: In 2013, the City of Bangor became a direct recipient of Federal Transit Administration (FTA) funding for the Community Connector. As a result of a recent audit, the City was required to bring its purchasing policy and procedures into compliance with FTA rules. If approved, the proposed changes will bring the City in compliance with FTA regulations for competitive purchasing when FTA funds are used. The proposed changes are generally complementary to the City's current procedures.

This amendment was reviewed and recommended for approval by the Finance Committee on September 19, 2016.

16-359 ORDER **Authorizing a Development Agreement for the
Rehabilitation of 130 13th Street (012/052)** **GRAHAM**

REGULAR MEETING BANGOR CITY COUNCIL – SEPTEMBER 26, 2016

CONSENT AGENDA ITEM NO.

ASSIGNED TO COUNCILOR

Executive Summary: This order will authorize a development agreement with Patricia and Larry Dearborn for property located at 130 13th Street. In November of 2015 the City entered into a development agreement for the rehabilitation of the single family property located at 130 13th Street with JD Contracting. JD Contracting sold the property to Patricia and Larry Dearborn, prior to completing the terms of the development agreement. The Dearborn's wish to enter a similar agreement with the City to perform the needed rehabilitation work and have completed removal of damaged features. This agreement differs from the first in that it requires periodic progress inspections by the Housing Rehabilitation Coordinator and has a 9 month completion window.

This item was reviewed and recommended for approval by the Business & Economic Development Committee at its September 20, 2016 meeting.

16-360 ORDER Authorizing the Adoption of the 2016 Penobscot County Hazard Mitigation Plan PERRY

Executive Summary: This Order will authorize adoption of the recently updated 2016 Penobscot County Hazard Mitigation Plan. This plan is updated to meet Federal Emergency Management Agency (FEMA) standards for disaster reimbursement. Bangor officials signed the original document in 2005 and an update in 2010. All communities are required to endorse updates to remain eligible for disaster funds.

This item was reviewed and recommended for approval by the Government Operations Committee on September 19, 2016.

16-361 ORDER Authorizing the Execution of an Agreement with Eastern Sno Cross – for use of the Bass Park Infield, Track, and Grandstand GRAHAM

Executive Summary: This past January, East Coast Sno Cross, LLC entered into an agreement with the City to host a snowmobile racing event at Bass Park. This event is part of a tour operated by East Coast Sno Cross. East Coast Sno Cross wishes to use the infield, a portion of the track and the grandstand at Bass Park for 2017. The event will be on January 28th and 29th, 2017 from 9:00 a.m. to 5:00 p.m. each day. The premises will be used from January 11, 2017 through February 1, 2017 for set up, take down and the event itself. The City leases the premises to Hollywood Casino and they have participated in the discussions with East Coast Sno Cross and are in agreement with allowing the event.

If approved, the agreement shall include the following terms: East Coast Sno Cross will pay the City \$1.25 for every ticket sold to the event; East Coast Sno Cross will provide insurance with the City of Bangor and Hollywood Casino named as additional insured; East Coast Sno Cross will indemnify and hold harmless the City of Bangor and Hollywood Casino; East Coast Sno Cross will pay the City any direct costs for fire, police and water usage; East Coast Sno Cross will provide a security deposit. This item was reviewed and recommended for approval by the Government Operations Committee on September 19, 2017.

REGULAR MEETING BANGOR CITY COUNCIL – SEPTEMBER 26, 2016

CONSENT AGENDA ITEM NO.

ASSIGNED TO COUNCILOR

16-362 ORDER

Authorizing the City Manager to Apply for a two year Grant in the amount of \$60,000 from the Maine Department of Health and Human Services (DHHS), Centers for Disease Control, Lead Poisoning Prevention Fund

NICHOLS

Executive Summary: This order authorizes the City Manager to apply for a two-year grant in the amount of \$60,000 from the Maine DHHS to advance meaningful progress toward reducing the burden of childhood lead poisoning in Bangor. If approved, this grant will support community-based activities that enable parents and property owners to identify and address lead hazards and risks before children are poisoned. Specifically, this grant will focus on: 1) owners of rental units built before 1950 in Bangor; and, 2) households with expectant parents and parents with children less than six (6) years old who live in rental units or owner-occupied homes built before 1950. Bangor is one of the five high risk areas in Maine which also includes the municipalities of: Augusta, Biddeford, Lewiston/Auburn and Portland.

Revenue for the Lead Poison Prevention Fund is obtained from a twenty-five cent (\$0.25) per gallon fee imposed on manufacturers or wholesalers of paint sold in Maine. The LPPF is administered by the DHHS Childhood Lead Poisoning Prevention Unit.

DHHS has been providing contracts to Bangor to conduct lead poisoning education and outreach activities since 2009. Over that time period, DHHS has documented declines in the percentage of children under age six (6) who have been newly identified with lead poisoning in all high risk areas for the years 2010-2014 as compared to 2003-2007, the five (5) year time period prior to the initiation of lead poisoning prevention activities. This was reviewed and recommended for approval at the September 19, 2016 Government Operations Committee meeting.

REFERRALS TO COMMITTEE AND FIRST READING ITEM NO.

ASSIGNED TO COUNCILOR

16-363 ORDINANCE

Amending Land Development Code – Zone Change – At 647 Main Street (Tax Map 27-Lot 001) from an Industry and Service District to Government & Institutional Service District (First Reading and Referral to Planning Board Meeting of October 4, 2016)

PLOURDE

Executive Summary: The applicant, City of Bangor, is requesting a zone change for a portion of the property located at 647 Main Street, immediately adjacent to Parks and Recreation Department (Tax Map 27 Lot 001). The request is to rezone from an Industry and Service District to Government & Institutional Service District which is consistent with existing zoning for Parks and Recreation and will allow them to develop programming and greenspace which is consistent with their mission. This item was reviewed and recommended for approval at the September 19, 2016 Government Operations meeting.

REGULAR MEETING BANGOR CITY COUNCIL – SEPTEMBER 26, 2016

REFERRALS TO COMMITTEE AND FIRST READING ITEM NO.

ASSIGNED TO COUNCILOR

16-364 ORDINANCE **Amending Chapter 165, Land Development Code, of the Code of the City of Bangor, By Allowing Information Processing Centers in Commercial Zones (First Reading and Referral to Planning Board Meeting of October 4, 2016)** **BALDACCI**

Executive Summary: This ordinance will amend the Land Development Code of the City of Bangor to include information processing centers in the Shopping and Personal Service District. As large retail spaces are vacated, there is interest in other uses besides traditional retail that are compatible with the district. As the General Commercial and Service District also includes all allowed uses in the Shopping and Personal Service District, these facilities would now be allowed in these two additional zones. They are currently a permitted use in the Industry and Service and Technology and Service Districts. As this sort of use often requires a greater number of parking spaces than a typical office, the ordinance change would also add a parking requirement specific to this use.

This item was reviewed and recommended for approval by the Business & Economic Development Committee at its September 20, 2016 meeting.

16-365 RESOLVE **Appropriating \$225,000 from the School Capital Reserve to Fund Roof Repairs (First Reading)** **DURGIN**

Executive Summary: This resolve would appropriate \$225,000 to fund roof repairs at the Abraham Lincoln School, Fruit Street School and the James F. Doughty School. During the FY 2016 budget deliberations, the Bangor School Committee and the Bangor City Council approved the establishment of a \$356,039 capital reserve fund for school repairs. Monies to fund this fund came from additional General Purpose Aid for Education that was passed after the Bangor School Budget was approved. The additional funds were first used to reduce the local tax burden to a zero increase and the remaining \$356,039 was deposited into a School Capital Reserve Fund. Any funds that remain unspent at the conclusion of the roof work will be returned to the School Capital Reserve Fund. This item was reviewed and recommended for approval at the Finance Committee meeting of September 19, 2016.

16-366 RESOLVE **Accepting and Appropriating Grant Funds from the U.S. Department of Housing and Urban Development - Shelter Plus Care Renewal for a one year period beginning September 1, 2016 (First Reading)** **NICHOLS**

Executive Summary: This resolve will accept and appropriate a grant in the amount of \$125,000 from SAMHSA to continue to implement the Drug Free Communities program in Brewer, Hermon and Hampden. This is the fifth year of a five-year grant to address substance abuse prevention in three municipalities in the Penquis Region Public Health District: (Brewer, Hampden, and Hermon). The term of the fifth year is September 30, 2016 to September 29, 2017. This was reviewed and recommended for approval at the September 19, 2016 Government Operations Committee meeting

REGULAR MEETING BANGOR CITY COUNCIL – SEPTEMBER 26, 2016

REFERRALS TO COMMITTEE AND FIRST READING ITEM NO.

ASSIGNED TO COUNCILOR

16-367 RESOLVE **Accepting and Appropriating a Grant in the amount of \$125,000 from the Substance Abuse and Mental Health Services Administration (SAMHSA) to Implement Drug Free Communities Program. (First Reading)** **SPRAGUE**

Executive Summary: This Resolve will accept and appropriate \$422,158 in Shelter Plus Care funds to provide housing and support for eligible recipients for a period of one year. The City receives ongoing renewal funding to continue several homeless programs under the U.S. Department of Housing and Urban Development's Homeless Continuum of Care. The program is used to provide subsidized rents for up to 65 qualified homeless individuals in the Bangor Region with a primary diagnosis of mental illness, chronic substance abuse or HIV related illness who is receiving support services. Of the 65 clients currently served, 55 have housing in Bangor, 1 in Orono, and 9 in Brewer. The grant period is September 1, 2016 to August 31, 2017.

This was reviewed and recommended for approval at the September 19, 2016 Government Operations Committee meeting.

UNFINISHED BUSINESS ITEM NO.

ASSIGNED TO COUNCILOR

16-341 ORDINANCE **Amending Chapter 260, Signs, of the Code of the City of Bangor, By Allowing for Banners on Municipal Buildings Advertising the Downtown and City Amenities** **GRAHAM**

Executive Summary: This ordinance will amend Chapter 260, Signs, of the Code of the City of Bangor to allow for banners on the parking garage and other City-owned buildings. In an effort to improve the look and functionality of the parking garage, the City wishes to erect a series of artistic and informative banners, designed by local artists. If approved, the proposed ordinance change allows for such banners or signs to be erected on City owned buildings upon approval of the City Council.

This item was reviewed and recommended for approval at the Business and Economic Development Committee Meeting on September 7, 2016.

16-342 ORDINANCE **Amending Land Development Code – Contract Zone Change – 900 State Street (Tax Map R 71, Parcel 22) from a Low Density Residential District to a Contract Government & Institutional Service District** **NEALLEY**

Executive Summary: The applicant, Julie Sites is requesting a contract zone change for a 6.2 acre parcel of land located at 900 State Street (Tax Map R71, 22), from Low Density Residential District to a Contract Government and Institutional Service District.

REGULAR MEETING BANGOR CITY COUNCIL – SEPTEMBER 26, 2016

UNFINISHED BUSINESS ITEM NO.

ASSIGNED TO COUNCILOR

The proposed contract conditions will allow the existing large single family home, known as the William Peters House to be used as a nonprofit wellness center. The William Peters House, built in 1911, was designed by architect Milton Stratton in the Neo Rationalist style. In addition, the property includes gardens designed by Olmsted Brothers, Landscape Architects. Both elements give it some historical significance in the City of Bangor.

If approved, the proposed conditions for the contract zone will require the structure to be designated under the Historic Preservation Ordinance. Any new structures will be limited to 35 feet in height, 10,000 square feet in floor area and not exceed an Impervious Surface Ratio of 40%.

The Planning Board voted two in favor and four opposed to the proposal at its meeting on September 20, 2016.

16-343 RESOLVE **Authorizing the City Manager to Accept and
Appropriate Grant Funds from the Maine Department
of Health and Human Services – WIC Nutrition
Program**

PLOURDE

Executive Summary: This resolve will accept and appropriate \$2,651,712.20 in grant funds for the Women, Infants, and Children Supplemental Nutrition Program (WIC). The Public Health and Community Service WIC Nutrition Program currently services a monthly average of 3,000 participants at their Bangor, Dexter, Dover, Corinth, Lincoln, Millinocket, Milo, Newport, and Greenville sites. The proposed agreement provides \$550,703.00 for administration, \$2,000.00 in Farmer's Market Administration, \$25,624.00 in WIC Breastfeeding Peer Counseling, and \$2,073,385.20 for food vouchers. The grant covers the period from October 1, 2016 through September 30, 2017. This was reviewed and recommended for approval at the September 7, 2016 Government Operations Committee meeting.

NEW BUSINESS ITEM NO.

ASSIGNED TO COUNCILOR

None.



MINUTES OF REGULAR MEETING BANGOR CITY COUNCIL – SEPTEMBER 12, 2016

*Meeting called to order at 7:30 PM
Chaired by Council Chair Faircloth
Councilors Absent: Plourde and Nealley
Meeting adjourned at 8:05 PM*

PROCLAMATION *Proclaimed September Childhood Cancer Awareness Month In
The City Of Bangor*

PUBLIC COMMENT *Shane Walsh, 23 March Street, thanked the city for its support
of the Community Connector and the offer of free rides to the
polls on Election Day.*

CONSENT AGENDA ITEM NO.	ASSIGNED TO COUNCILOR
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MINUTES OF: *Bangor City Council Regular Meeting of August 22, 2016, Finance Committee
Meeting of September 7, 2016 and Business and Economic Development Committee
of August 22, 2016*

Action: *Accepted and Approved*

Liquor License Renewal: *Application for a New Liquor License Malt, Spirituous, Vinous GRAHAM
of AK George d/b/a Ipanema 10 Broad Street*

Action: *Approved*

*Application for Liquor License Renewal, Malt, Spirituous, GRAHAM
Vinous of Ninja House Inc. d/b/a Kobe Ninja House, 829
Hogan Road*

Action: *Approved*

*Application for Liquor License Renewal, Malt, Spirituous, GRAHAM
Vinous of Dorks R Us d/b/a Bangor Courtyard Marriott, 236
Sylvan Road*

Action: *Approved*

*Application for Liquor License Renewal, Malt, Spirituous, GRAHAM
Vinous of Apple New England, LLC d/b/a Applebee's
Neighborhood Grill & Bar, 718 Hogan Road*

Action: *Approved*

*Application for Liquor License Renewal, Malt, Spirituous, GRAHAM
Vinous of Eleven Central Inc. d/b/a Eleven Central, 11 Central
Street*

Action: *Approved*

MINUTES OF REGULAR MEETING BANGOR CITY COUNCIL – SEPTEMBER 12, 2016

- 16-332 ORDER *Authorizing Execution of Municipal Quitclaim Deed – Real Estate Located at 77 Walter Street (Map 035 Lot 006)* **DURGIN****
- Action: *Passed***
- 16-333 RESOLVE *Ratifying Execution of Municipal Quitclaim Deed – Real Estate Located at 156 Elm Street (Map 047 Lot 174)* **NEALLEY****
- Action: *Passed***
- 16-334 ORDER *Authorizing the City Manager to Accept \$6070.50 in U.S. Currency, or a Portion Thereof, as a result of a State Criminal Forfeiture* **SPRAGUE****
- Action: *Passed***
- 16-335 ORDER *Authorizing the lease of a fuel truck from SkyMark Refuelers, LLC. for Bangor International Airport* **BALDACCI****
- Action: *Passed***
- 16-336 ORDER *Authorizing Bid Award to JM Brown General Contractor for Building 456 Fuel Containment Building Modifications* **NICHOLS****
- Action: *Passed***
- 16-337 ORDER *Designating Maine Power Options as the City of Bangor's Electricity Supply Aggregator* **SPRAGUE****
- Action: *Passed***
- 16-338 ORDER *Authorizing the Execution of Fixed Rate Pricing Contracts with the City's Current Fuel Suppliers* **PERRY****
- Action: *Passed***
- 16-339 ORDER *Authorizing the City Manager to Execute a Landlord's Consent to Assignment – portion of Map R17 Lot 013B* **PLOURDE****
- Action: *Passed***
- 16-340 ORDER *Authorizing Execution of Documents for the Sale of 91 Larkin Street (Map 025 Lot 090) to Jennifer DeGroff in the Amount of \$2,200* **DURGIN****
- Action: *Passed***

MINUTES OF REGULAR MEETING BANGOR CITY COUNCIL – SEPTEMBER 12, 2016

REFERRALS TO COMMITTEE AND FIRST READING

16-341 ORDINANCE *Amending Chapter 260, Signs, of the Code of the City of Bangor, By Allowing for Banners on Municipal Buildings Advertising the Downtown and City Amenities* **GRAHAM**

Action: *First Reading*

16-342 ORDINANCE *Amending Land Development Code – Contract Zone Change – 900 State Street (Tax Map R 71, Parcel 22) from a Low Density Residential District to a Contract Government & Institutional Service District* **NEALLEY**

Action: *First Reading and Referral to Planning Board Meeting of September 20, 2016*

16-343 RESOLVE *Authorizing the City Manager to Accept and Appropriate Grant Funds from the Maine Department of Health and Human Services – WIC Nutrition Program* **PLOURDE**

Action: *First Reading*

16-344 RESOLVE *Accepting and Appropriating a Grant from the U.S. Economic Development Administration, in the amount of \$1,243,004 to Support an Expansion at C&L Aerospace Holdings at Bangor International Airport* **BALDACCI**

Action: *Motion made and seconded to Waive First Reading
First Reading Waived
Motion made and seconded for Passage
Passed*

UNFINISHED BUSINESS

ASSIGNED TO COUNCILOR

16-327 RESOLVE *Accepting and Appropriating \$880 from the Optional Cultural Investment Fund for Support of Artober 2016* **PLOURDE**

Action: *Motion made and seconded for Passage
Passed*

16-328 RESOLVE *Accepting and Appropriating a Grant from the Maine Department of Health and Human Services, Public Health Nursing Dept., in the amount of \$61,048 to support Bridging Services* **SPRAGUE**

Action: *Motion made and seconded for Passage
Passed*

16-329 RESOLVE *Accepting and Appropriating an Additional \$80,700 for the Supplemental Nutrition Education Grant Program (SNAP-ED)* **NICHOLS**

Action: *Motion made and seconded for Passage
Passed*

PUBLIC HEARING: *Application for a New Special Amusement License of AK George d/b/a Ipanema, 10 Broad Street* **GRAHAM**

Action: *Motion made and seconded to open Public Hearing
Public Hearing Opened
Motion made and seconded to close Public Hearing
Public Hearing Closed
Motion made and seconded for Approval
Approved*

16-345 ORDER *Authorizing the City Manager to Apply for a Maine Health Access Foundation Healthy Communities Phase III Implementation Grant* **PLOURDE**

Action: *Motion made and seconded for Passage
Passed*

16-346 ORDER *Authorizing Agreement with Waterfront Concerts, LLC Concert Venue Access Road* **DURGIN**

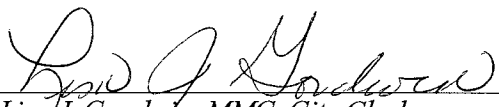
Action: *Motion made and seconded for Passage
Passed*

16-347 ORDER *Authorizing Lease Agreement with Tilton Flying Service LLC for a parcel of City-owned land located at Bangor International Airport* **BALDACCI**

Action: *Motion made and seconded for Passage
Passed*

16-348 ORDER *Authorizing Execution of Agreement with C&L Aerospace Holdings LLC - Bangor International Airport* **PERRY**

Action: *Motion made and seconded for Passage
Passed*

Attest: 
Lisa J. Goodwin, MMC, City Clerk

MINUTES

BANGOR SCHOOL COMMITTEE SPECIAL MEETING

6:30 p.m., Wednesday, August 17, 2016

School Committee Members present: Chairman Warren Caruso, Brian Doore, Sue Hawes, Sue Sorg, and Marlene Susi. Members Jay Ye and Jennifer DeGroff were unable to attend.

The meeting was called to order by Chairman Caruso at 6:31 p.m.

By roll call vote entered Executive Session for the purpose of discussion regarding a personnel matter pursuant to 1 M.R.S.A. subsection 405(6)(A) and for the purpose of discussion regarding collective bargaining with the Teachers' Bargaining Unit pursuant to 1 M.R.S.A. subsection 495(6)(D) at 6:32 p.m.

Returned to public session at 6:50 p.m.

Meeting adjourned at 6:51 p.m.

Respectfully submitted,

Betsy M. Webb, Ed.D.
Superintendent of Schools

MINUTES

BANGOR SCHOOL COMMITTEE SPECIAL MEETING

8:10 a.m., Monday, August 29, 2016

School Committee Members present: Chairman Warren Caruso, Vice Chair Jay Ye, Jennifer DeGroff, Sue Sorg, and Marlene Susi. Members Brian Doore and Sue Hawes were unable to attend.

The meeting began at 8:10 a.m.

The Welcome Back Assembly for Faculty and Staff was held at Peakes Auditorium at Bangor High School.

The assembly adjourned at 9:30 a.m.

Respectfully submitted,

Betsy M. Webb, Ed.D.
Superintendent of Schools

MINUTES

BANGOR SCHOOL COMMITTEE REGULAR MEETING 7:00 p.m., Wednesday, August 27, 2016

School Committee Members present: Chairman Warren Caruso, Vice Chair Jay Ye, Jennifer DeGroff, Brian Doore, Susan Hawes, Sue Sorg, and Marlene Susi.

A 1 & 2 The meeting was called to order by Chairman Caruso at 7:00 p.m. and the Pledge of Allegiance followed.

3. a. The Bangor School Department and the Bangor School Committee recognized the Class A State Champion Bangor High School Baseball Team.

b. The Bangor School Department and the Bangor School Committee recognized Trevor DeLaite for being selected the 2016 Maine Gatorade Baseball Player of the Year.

D. 1. a. Superintendent Webb recommended approval of a partnership between Penobscot Community Health Care (PCHC) and the Bangor School Department (BSD) in which PCHC will provide dental services to students at the Downeast School. PCHC recently was awarded a federal grant and they have purchased portable equipment in order to provide services in the community. PCHC will use a portion of the Nurse's Office with their portable equipment to provide services to students. Billing will be handled between PCHC and the family. The BSD is not providing funding to this program.

Committee Members asked questions and voiced support for the partnership.

VOTED 6-0 to approve the partnership as presented.

D. 2. a. Assistant Superintendent Robert MacDonald provided an overview of the Elementary and Secondary Education Act application.

b. Assistant Superintendent Robert MacDonald reviewed the previous school year's Reading Recovery progress.

Members asked questions and shared how impressive the Bangor results are in comparison to the state and national levels.

c. Cathleen Hanchlich Neslusan, Grant Writer/Development Director, updated the Committee of the redesigned BSD website. Key features include mobile responsiveness, slide-in menus, dropdown list of schools, audience-specific navigation, quick links, alert message bar, newsletter sign up, and a main slideshow.

E. 1. a. 1. Voted 6-0 to approve the Minutes of the July 27, 2016 Regular School Committee Meeting.

b. 1. a. Superintendent Webb recommended the following Teacher nomination(s) for the 2016-2017 school year, all with a one-year Probationary Contract:

Heidi Coghill, Special Education Teacher at Vine Street School
 John Morgan, Jr. Special Education Teacher at Mary Snow School
 Daniel Considine, Special Education Teacher at Bangor Regional Program
 Lee Clein, Special Education Teacher at Bangor High School

VOTED 6-0 to approve the nominations as presented.

2. Superintendent Webb recommended the following extra-duty assignments for the 2016-2017 school year:

Chemical Management Officer (½)	Systemwide	Patricia Bernhardt
Chemical Management Officer (½)	Systemwide	Tracy Vassiliev
Head Coach Spring Track	Bangor High School	Keenan Blindow
Head Coach Winter Track	Bangor High School	Alan Mosca
IEP Coordinator (½)	WSCS	Molly Stern
IEP Coordinator (¼)	WSCS	Jeremy Dubois
IEP Coordinator (½)	Fairmount School	Sheila Krautkremer
IEP Coordinator (½)	Fairmount School	Suzanne Whitmore
IEP Coordinator (½)	Fruit Street School	Sarah Vickers
IEP Coordinator (½)	Mary Snow School	Kassie Levesque
IEP Coordinator (½)	Vine Street School	Rebekah Timms
Certification Gov Committee	Systemwide	Susan McGarry

VOTED 5 (Caruso, Doore, Hawes, Sorg, Susi) 0 opposed and 1 (DeGroff) abstained to approve the nominations as presented.

c. 1. Superintendent Webb recommended receipt of First Reading of Policy EEAE Student Transportation in Private Vehicles.

VOTED 6-0 to receive the first reading as presented.

d. Superintendent Webb recommended approval of Second Reading of the following policies:

1. Revised Policy ADC – Tobacco Use and Possession – ES
2. Revised Policy JFCI- Chemical Health- ES
3. Revised Policy IGDH-Academic Contests for Students - ES

VOTED 6-0 to approve the policies as presented.

H. Chairman Caruso reviewed the important dates.

J. Meeting adjourned at 8:51 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Betsy M. Webb', followed by a long, sweeping horizontal line that extends to the right.

Betsy M. Webb, Ed.D.

City of Bangor - Airport Committee
City Council Chambers 3rd Floor
September 13, 2016
Committee Meeting Minutes

The following City Councilors were in attendance: Airport Committee Chair Joseph Baldacci, Councilors Nelson Durgin, David Nealley, Gibran Graham, Joseph Perry, Benjamin Sprague, and Sarah Nichols. Also in attendance was City Manager Cathy Conlow, Airport Director Tony Caruso and Marketing Manager Risteen Bahr.

Agenda and Discussion:

1.) Rent-A-Wreck of Bangor: Off-site car rental agreement.

Director Caruso introduced the following item for Airport Committee review and approval. This is a request for approval of an agreement with Rent-A-Wreck of Bangor to provide rental cars to Bangor International Airport passengers from its off-airport location. This agreement outlines the procedures, parameters, and payment arrangements for off-airport rentals. This agreement is similar to the off-site agreement with Enterprise. In exchange for the right and opportunity to operate an off-airport rental operation, Rent-A-Wreck will pay the airport 7.5% of gross rental revenues derived from airport activities. This will be a 5 year agreement with Rent-A-Wreck.

Motion to accept Staff recommendation – Councilor Durgin, seconded by Councilor Nichols.

Motion accepted and recommended to City Council for approval.

2.) Maine Highlands lease renewal.

Director Caruso introduced the following item for Airport Committee review and approval. This is a lease renewal request with Maine Highlands. Maine Highlands is part of the Maine Tourism Marketing Partnership Program (MTMPP) which develops and implements programs designed to stimulate and expand the travel industry within Maine's tourism regions. It is also intended to strengthen the State's image by coordinating the promotional efforts of the private sector with those of the Office of Tourism. The lease includes the following terms: Maine Highlands will lease approximately 203 sf of office space in the General Aviation terminal at a rate of \$235 per month including utility costs; the term of the lease is for one year and includes two (2) one-year renewals.

Motion to accept Staff recommendation – Councilor Durgin, seconded by Councilor Nealley.

Motion accepted and recommended for City Council approval.

3.) Airport statistics – July & August (if available) 2016.

Marketing Director Bahr – reviewed and discussed the domestic passenger statistics. For July and August 2016, we had our best months, with both being shaded in yellow! For

the month, July was up 4.39% and August was up 3.38%. Increased capacity contributed to this increase, having an increase of 5% more seats. Increased LGA service from United Airlines has helped our figures. Airline load factors are excellent, specifically for August. The figures indicate aircraft are full or oversold. This information is used for airline proposals for additional service.

Councilor Graham – offered positive comments; asked question as to what is helping attribute to the increase.

Marketing Director Bahr commented that BGR had a new route with Newark service and add'l LGA service.

Councilor Graham – follow up question related to utilizing this information.

Marketing Director Bahr commented that we already have some preliminary info on travelers, but our Leakage study will help identify even more info.

Councilor Nealey offered positive comments; remarked that it is good to see that new routes have high load factors; more local customers seem to be using BGR.

Marketing Director Bahr, replied that the Leakage study will address some of the items discussed but she suspects the percentage of leakage to other airports is lower than when the previous study was done.

Committee Chair Baldacci asked about the operational statistics and fuel margins.

Director Caruso replied that it really depends upon the business segment. Currently BGR is just under doubling the fuel sales from this period last year, primarily driven by MIL/DOD fuel sales. BGR can meet the full needs of customers such as the recent IAF flights.

Chair Baldacci asked to review the Operational statistics for the Committee.

Director Caruso review the July figures, were YTD BGR is up 5%, AUG was trending in the same fashion and Retail sales is a bright spot.

4.) Airport construction update:

AIP #70 - Gate 3 passenger boarding bridge and hold room expansion

Director Caruso review the current AIP project and provided several pictures illustrating the progress. Progress is going well and we anticipate opening this new gate area by the end of OCT, with the new jetbridge arriving and will be installed by DEC. Director Caruso reminded the audience that with this Federal project, 90% is paid through the Federal government, 5% is paid through State funds, and the final 5% is paid through airport funds.

Meeting adjourned at 5:45pm.

Government Operations Committee

Minutes

September 7, 2016

Councilors Attending: Plourde, Perry, Nichols, Graham, Baldacci, Durgin

Staff Attending: Conlow, Farrar, Heitmann, Hamilton, Wardwell, Willette

Others Attending: Residents of North Park Street, Peter Hansen

Committee Chair Plourde called the meeting to Order at 6:00pm

1. Authorization to Accept and Appropriate funding for the WIC Nutrition Program in the amount of \$2,651,712.20 for the year beginning October 1, 2016
 - Health and Community Services Director Hamilton explained the nature and purpose of the Resolve to Accept and Appropriate WIC grant funding. It was moved by Graham, seconded by Baldacci, and voted to recommend approval of the Resolve to the full Council.
2. Authorization to Apply for a Maine Health Access Foundation Healthy Communities Phase III Implementation Grant in the amount of \$187,000 for a three year term beginning November 15, 2016
 - Health and Community Services Director Hamilton explained the nature and purpose of the Order to authorize application for a MEHAF Healthy Communities Phase III Implementation Grant. It was moved by Graham, seconded by Nichols and voted to recommend the Order to the full Council.
3. Request to Eliminate Parking on both sides of North Park Street between Broadway and French Street
 - Public Works Director Wardwell explained the situation on North Park Street. Essentially, the width of the street does easily accommodate parking on both sides of the street and two-way traffic, as is now the case. A request was received to eliminate the parking, or to make the street one way with parking on one side. After reviewing the situation Public Works recommended discontinuing parking on both sides of the street. Several residents of North Park Street and adjacent properties spoke about the challenges of traffic, parking, lack of striping and safety concerns. Residents had a variety of suggestions regarding how to remedy these challenges. The problem is also compounded by the proximity to St Joseph Hospital and the right in / right out only on the next street parallel, Congress Street. Councilors asked questions of staff and discussed various options to alleviate the problem. A variety of ideas was discussed, but no consensus emerged regarding the best way to proceed. Following further discussion, the Committee asked Director Wardwell to collect /

analyze / evaluate traffic counts on North Park Street and to work with BACTS regarding traffic modeling, returning to the Committee with results when completed. There was no formal action taken by the Committee on the no parking request, pending further evaluation.

4. Discussion / Consideration of Implementing a Smoking Ban in Public Parks and Public Spaces

- City Solicitor Heitmann explained the recently enacted Ordinance prohibiting smoking in 11 identified parks which contain features / attractions that would likely draw children—pools, playgrounds, play-structures, etc. He further explained there were other parks and public spaces that could be considered for inclusion in a smoking ban if Council desired, but he cautioned that public spaces, if included, should be carefully defined /described given actual versus perceived boundary lines in some areas. Councilors in attendance expressed their views on whether more parks, in general, should be included, with specific discussion on the appropriateness of including the the Golf Course, Pickering Square, West Market Square, and Bass Park in the smoking ban. Additionally, the topic of smoking on sidewalks and other property owned by the city was discussed. Councilors and staff also discussed the challenge of trying to enforce no smoking bans in all of the locations under discussion. Several different points of view were offered and discussed. Ultimately, as not all Councilors were in attendance for the discussion, the Committee decided to hold a Council Workshop on this issue given the continuing interest expressed by some. It was recommended that the Workshop be held before the end of the current sitting Council as the present Council has the most knowledge and is most familiar with the background issues surrounding this topic. Staff agreed to schedule a workshop in October to revisit this issue.

With no further business to come before the Committee, the meeting was adjourned at 7:00pm.

Government Operation Committee

Minutes

September 19, 2016

Councilors Attending: Sprague, Faircloth, Durgin, Nichols, Perry, Graham, Nealley

Staff Attending: Conlow, Farrar, Higgins, Willette, Hamilton

Other Attending: Jenn Kharvari, EMCC, Skip Black

Chair Pro-Tem Sprague, filling in for Chair Plourde called the meeting to Order at 5:15

Consent Agenda

1. Council Order, Authorizing Application for a Lead Poisoning Prevention Grant
2. Council Resolve, Accepting and Appropriating Funding for the Drug Free Communities Grant
3. Council Resolve, Accepting and Appropriating Funding for the Shelter + Care Program
4. Council Order, Authorizing Adoption of the 2016 Penobscot County Hazard Mitigation Plan
5. Council Order, Authorizing the Application for 2016 Assistance to Firefighter Grant
 - Assistant City Manager Farrar gave a brief explanation of the Consent Agenda items. It was then moved by Nichols, seconded by Perry and unanimously voted to recommend approval of the Consent Agenda items to the full Council.

Regular Agenda

6. 2017 Sno-Cross Agreement for the Use of Bass Park Infield, Track and Grandstand
 - Parks and Recreation Director Willette explained the item and request. Committee members noted this was a great event to have during the winter months. Jenn Khavari from EMCC thanked the Committee for their support. It was moved by Graham, seconded by Nichols and voted unanimously to recommend approval to the full Council.
7. Proposed Relocation of Skateboard Park to the Parks and Recreation Building on Lower Main Street
 - Parks and Recreation Director Willette explained the need for a zone change to facilitate the use of the parcel of land behind the Parks and Recreation building on lower Main Street. One potential use for the site is the relocation of the skateboard park, but no formal decision has yet been made. Graham noted that he hoped other sites would be evaluated and that skateboard park users were interested in looking at other possible locations, even if it meant waiting a little while for a location to be determined. Perry asked about future fundraising efforts to replace the aging equipment. Willette responded that the skateboard park users were aware that the equipment was nearing the end of its useful life and that they would probably need to fundraise, as they did originally. It was moved by Nichols, seconded by Perry and voted unanimously to approve the request to move forward through the normal zoning amendment

process to change the current zoning from Industry and Service to Government and Industrial Service District.

8. Designation of Voting Delegate Credentials for Annual Maine Municipal Association Business Meeting on October 5th at 1:30 at the Cross Insurance Center

- Assistant City Manager Farrar explained that as a member of MMA, the city has the opportunity to choose a delegate to vote at the annual MMA Business meeting, held in conjunction with the MMA Convention. The Convention is in Bangor this year in early October. Durgin indicated he was planning to attend, and it was moved by Perry, seconded by Nichols and unanimously voted to designate Councilor Durgin as Bangor's voting delegate.

With no further business to come before the Committee, the meeting was adjourned at 5:30 pm.

FINANCE COMMITTEE MINUTES

September 19, 2016

Councilors in Attendance: Perry, Faircloth, Graham, Sprague, Durgin, Nealley, Nichols

Staff in Attendance: Cyr, Conlow, Beaton, Willett, Wardwell, Little, Drew, Nicklas, Willette, Webb, Rudzinski

1. Bids/Purchasing

- a. Plow Equipment & Truck Body – Public Works – HP Fairfield - \$66,545

Motion made and seconded to award bid, motion passed unanimously.

- b. Tandem Axle Cab & Chassis – Public Works – Daigle & Houghton - \$77,775

Motion made and seconded to award bid, motion passed unanimously.

- c. Roof Repairs Parks & Rec Center – Parks & Rec - Roof Systems of Maine - \$17,995

Motion made and seconded to award bid, motion passed unanimously.

- d. Multiple Vehicles – Public Works – Darlings Automall - \$61,628

Motion made and seconded to award bid, motion passed unanimously.

- e. Underground Pipe Modifications & Valve Pit – Airport – Sullivan & Merritt - \$73,500

Motion made and seconded to award bid, motion passed unanimously.

- f. Request to Waive Bid Process – Deicing Building Furnace – Airport

Motion made and seconded to waive the bid process to acquire a Thermo Cycle furnace from manufacturer to be installed by Airport personnel in the amount of \$12,132. Motion passed unanimously.

- g. Review of Revised Procurement Policy

Staff presented an overall of the revisions to the procurement policy. The amendment incorporates additional requirements related to procurements with Federal Transportation Administration (FTA) grant funds. This was an item that was raised during the Community Connector's recent FTA triennial review. Most are related to ensuring compliance with federal bid requirements such as Davis Bacon for construction, Buy America for goods, and the required documentation.

Motion made and seconded to recommend approval of the revised Procurement Policy to the City Council. Motion passed unanimously.

2. School Department Request to Appropriate Capital Reserve Funds

The request to appropriate school capital reserve funds that came about as a result the State of Maine final general purpose aid to education funding for FY 2016. Three school roofs are leaking and the request is to appropriate \$225,000 of these funds to repair the roofs prior to winter.

Motion made and seconded to recommend the appropriation to the City Council. Motion passed unanimously.

3. Utility Billing Update

Staff reviewed the current state of the City's utility billing system, which is now being done by City staff. The first liens under the new system will be maturing in January of 2017. Based on concerns about outstanding amounts, staff reviewed all accounts over 90 days with liens. The 40 largest accounts will be contacted regarding all amounts owed the City. Recently the staff has focused on real estate accounts with multiple years of liens, but in reviewing the sewer bills, it may be necessary to update our methods for identifying accounts to full up on. Staff is working to tie together sewer and real estate accounts so that amounts and number of years outstanding can be utilized to determine collection efforts. Councilors expressed varying thoughts including is this methodology targeting, should certain types of entities such as non-profits be viewed differently, should lists be made public, etc. Staff will continue to work on this effort to provide options for the Committee/Council to consider.

4. Request to Write off Taxes – 12 K Street Birch Hill Estates

The owner of this property walked away from it. The park owner is willing to rehab and take possession of it, but has requested the City write off the outstanding taxes. Concern was expressed that this sends a message. It was noted the property owners walk away from real estate on a fairly regular basis. In addition, mobile homeowners are known to simply move the home at times. Staff recommendation is to write the taxes off as this is in the best interest of the City. If this action were not taken, the City would become the owner, be required to pay lot rent, insure and determine its fate, i.e. rehab or dispose of.

Motion made and seconded to write off the taxes. Motion passed unanimously.

5. City Assessor Review of 2017 Commitment Report

The City Assessor reviewed the recently completed 2017 commitment report. The report summarized the overall minor reductions in both real estate and personal property values. The reduction in real estate is driven by abatements and the reduction in personal property is due to only about ½ or new investments in personal property are taxed locally and the balance is exempt from taxation through the State's BETE program. Under the BETE program the City is reimbursed 56% of the lost tax revenue.

The City Assessor reviewed the results of the recently completed State Valuation process. The State Valuation increased slightly, and the City's sales rational and quality rating also improved.

The City Assessor review the upcoming change to the Homestead Exemption. It will increase to \$20,000 per home effective 4/1/2017, but will also come with an increased reimbursement from the State which should minimize the impact on the City's tax rate. The department will also be reviewing eligibility for the exemption, both those that have it that should be verified as well as outreach and education for those who may be eligible.

Councilors asked about projects that would generate additional tax value in the coming year and it was noted that there is limited growth projected.

6. Executive Session – 1 MRSA Section 405 (6)(E) – Workers Compensation Settlement

7. Open Session – Workers Compensation Settlement Recommendation

Motion made and seconded to recommend approval of the settlement to the City Council. Motion passed unanimously.

Meeting adjourned 6:38 pm

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

Wednesday, Sept. 7, 2016 @ 5:15 PM
City Council Chambers

Meeting Minutes

Council Members Present: Baldacci, Durgin, Graham, Nealley, Nichols, Perry

City Staff Present: Bolduc, Collins, Emery, Lundy

Committee Chair Graham called the meeting to order at 5:15 p.m.

1. Landlord's Consent to Assignment – item introduced by Steve Bolduc.
Councilor Baldacci moved staff recommendation to approve the assignment,
Councilor Durgin seconded. Vote unless doubted, no doubt.

2. Maine Science Festival Banners in Downtown
Councilor Baldacci moved staff recommendation to approve the banners,
Councilor Durgin seconded. Vote unless doubted, no doubt.

Chair Graham – allowing banners on the larger light poles only was a mistake –
would like to suggest that we look at smaller banners on black poles.

3. Proposed Changes to Sign Ordinance
Councilor Baldacci moved staff recommendation to approve the proposed sign
ordinance changes and forward to full council, Councilor Durgin seconded. Vote
unless doubted, no doubt.

Councilor Baldacci moved for Executive Session, Councilor Durgin seconded at
5:25 p.m.

4. **Executive Session** – Economic Development – Request for Lease of Land - 1
M.R.S.A. § 405(6)(C)

Out of Executive Session at 5:28 p.m.

5. Councilor Baldacci moved staff recommendation to proceed with conceptual
design approval, target date FY 2017, seconded by Durgin. Vote unless doubted,
no vote.

Meeting adjourned at 5:30 p.m.

Respectfully submitted,
Melissa Bickford

Administrative Assistant
C&ED

COUNCIL ACTION

Item No. 16-349**Date:** September 26, 2016**Item/Subject:** **ORDER**, Authorizing Execution of Municipal Quitclaim Deed – Real Estate
Located at 25 Randolph Drive (Map 069, Lot 031).**Responsible Department:** Legal

Commentary:

Real estate tax and sewer liens matured on the property of Kenneth and Nancy Milliken of 25 Randolph Drive. All outstanding charges due the City have been paid. There are no property issues. Because the liens matured, a municipal quitclaim is required to release the City's interest in the property.

Staff recommends approval.

Department Head

Manager's Comments:

City Manager

Associated Information:

Budget Approval:

Finance Director

Legal Approval:

City Solicitor

Introduced for Consent Agenda

- ☒ **Passage**
- ☐ **First Reading**
- ☐ **Referral**



Assigned to Councilor Durgin

CITY OF BANGOR

(TITLE.) Order, Authorizing Execution of Municipal Quitclaim Deed – Real Estate
Located at 25 Randolph Drive (Map 069 Lot 031).

By the City Council of the City of Bangor:

ORDERED, Deborah A. Cyr, Finance Director, is hereby authorized and directed, on behalf of the City of Bangor, to execute a Municipal Quitclaim Deed releasing any interest the City may have by virtue of undischarged real estate tax and sewer liens recorded in the Penobscot County Registry of Deeds in Book 10483, Page 266, Book 11003, Page 86, Book 11263, Page 10, Book 11434, Page 200, Book 11480, Page 54, Book 11802, Page 229, Book 11890, Page 228, Book 12161, Page 134, Book 12211, Page 304, Book 12398, Page 28, Book 12508, Page 90, Book 12675, Page 293, Book 12852, Page 240, Book 13223, Page 285, Book 13562, Page 294, Book 13908, Page 174 and Book 14187, Page 308. Said deed shall be directed to Kenneth A. Milliken and Nancy L. Milliken in final form approved by the City Solicitor or Assistant City Solicitor.

COUNCIL ACTION

Item No. 16-350**Date:** September 26, 2016**Item/Subject:** **ORDER**, Authorizing Execution of Municipal Quitclaim Deed – Real Estate
Located at 131 Holiday Park (Map R47, Lot 007-A).**Responsible Department:** Legal

Commentary:

Real estate tax liens matured on the property of Charles Martin of 131 Holiday Park. All outstanding charges due the City have been paid. There are no outstanding sewer charges or property issues. Because the liens matured, a municipal quitclaim is required to release the City's interest in the property.

Staff recommends approval.

Department Head

Manager's Comments:

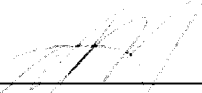
City Manager

Associated Information:

Budget Approval:


Finance Director

Legal Approval:


City Solicitor

Introduced for Consent Agenda

- ☒ **Passage**
- ☐ **First Reading**
- ☐ **Referral**



Assigned to Councilor Sprague

CITY OF BANGOR

(TITLE.) Order, Authorizing Execution of Municipal Quitclaim Deed – Real Estate
Located at 131 Holiday Park (Map R47 Lot 007-A).

By the City Council of the City of Bangor:

ORDERED, Deborah A. Cyr, Finance Director, is hereby authorized and directed, on behalf of the City of Bangor, to execute a Municipal Quitclaim Deed releasing any interest the City may have by virtue of undischarged real estate tax liens recorded in the Penobscot County Registry of Deeds in Book 13562, Page 257, Book 13908, Page 134 and Book 14187, Page 273. Said deed shall be directed to Charles Martin in final form approved by the City Solicitor or Assistant City Solicitor.

COUNCIL ACTION

Item No. 16-351**Date:** September 26, 2016**Item/Subject:** **ORDER**, Authorizing Execution of Municipal Quitclaim Deed – Real Estate
Located at 147 Fern Street (Map 053, Lot 148).**Responsible Department:** Legal

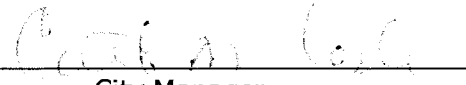
Commentary:

Real estate tax liens matured on the property of Lorna Davis of 147 Fern Street. All outstanding charges due the City have been paid. There are no outstanding sewer charges or property issues. Because the liens matured, a municipal quitclaim is required to release the City's interest in the property.

Staff recommends approval.

Department Head

Manager's Comments:

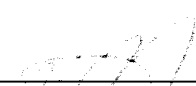

City Manager

Associated Information:

Budget Approval:


Finance Director

Legal Approval:


City Solicitor

Introduced for Consent Agenda

☒ **Passage**
☐ **First Reading**
☐ **Referral**



Assigned to Councilor Nealley

CITY OF BANGOR

(TITLE.) Order, Authorizing Execution of Municipal Quitclaim Deed – Real Estate
Located at 147 Fern Street (Map 053 Lot 148).

By the City Council of the City of Bangor:

ORDERED, Deborah A. Cyr, Finance Director, is hereby authorized and directed, on behalf of the City of Bangor, to execute a Municipal Quitclaim Deed releasing any interest the City may have by virtue of undischarged real estate tax liens recorded in the Penobscot County Registry of Deeds in Book 13562, Page 39, Book 13907, Page 294 and Book 14187, Page 102. Said deed shall be directed to Lorna Davis in final form approved by the City Solicitor or Assistant City Solicitor.

COUNCIL ACTION

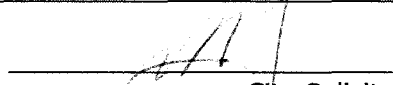
Item No. 16-352**Date:** September 26, 2016**Item/Subject:** Order, Authorizing the City to Apply for 2016 Assistance to Firefighter Grant.**Responsible Department:** Fire

Commentary: This Order will authorize the City to apply for not more than \$25,000 in grant funding to update physical fitness equipment for the City's firefighters. If approved, the grant would update fitness equipment including treadmills at each of the fire stations. A grant award would require a 10% match from the fire department budget, and funding is included in the approved FY 17 Fire Department budget. This was reviewed and recommended for approval by the Government Operations Committee on September 19, 2016.

Department Head**Manager's Comments:**


City Manager**Associated Information:** Order**Budget Approval:**


Finance Director**Legal Approval:**


City Solicitor**Introduced for**

- ☒ **Passage**
☐ **First Reading**
☐ **Referral**



Assigned to Councilor Plourde

CITY OF BANGOR

(TITLE.) Order, Authorizing the City to Apply for a 2016 Assistance to Firefighter Grant

By the City Council of the City of Bangor:

ORDERED,

THAT, the City Manager and Fire Department are hereby authorized to apply for a 2016 Assistance to Firefighter Grant, not exceeding \$25,000, to upgrade physical fitness equipment for the City's firefighters. The required 10% match is included in the approved FY 17 Fire Department Budget.

COUNCIL ACTION

Item No. 16-353

Date: September 26, 2016

Item/Subject: Order, Authorizing Settlement of Workers' Compensation Claim

Responsible Department: Finance

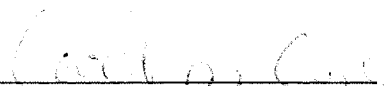
Commentary: This Order would authorize the settlement of a workers' compensation claim for David Boudreau, a former Public Works employee. The settlement will provide for a lump sum payment in the amount of \$30,000 which will fully settle any and all claims.

The Finance Committee reviewed and recommended approval of this proposed settlement on September 19, 2016.



Department Head

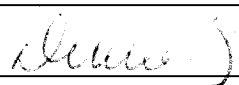
Manager's Comments:



City Manager


Associated Information: Order

Budget Approval:



Finance Director

Legal Approval:



City Solicitor

Introduced for

☒ **Passage - Consent**
☐ **First Reading**
☐ **Referral**

Page __ of __



Assigned to Councilor Perry

CITY OF BANGOR

(TITLE.) Order, Authorizing Settlement of Worker's Compensation Claim

By the City Council of the City of Bangor:

ORDERED, THAT the settlement of a workers' compensation claim of David Boudreau in the amount of \$30,000 is hereby approved.

Date: September 26, 2016

Item/Subject: ORDER, Authorizing the City Manager to execute an Off-Airport Car Rental Agreement with Rent-A-Wreck of Bangor to provide car rental services.


Responsible Department: Airport

Commentary: This Order will authorize an agreement with Rent-A-Wreck of Bangor to provide rental cars to Bangor International Airport passengers from its off-airport location. This agreement outlines the procedures, parameters, and payment arrangements for off-airport rentals. In exchange for the right and opportunity to operate an off-airport rental operation, Rent-A-Wreck will pay the airport 7.5% of gross rental revenues derived from airport activities.

If approved, this Order will authorize the City Manager to execute a 5 year agreement with Rent-A-Wreck. The agreement will be in final form as approved by City Legal. This item was reviewed and recommended for approval by the Airport Committee at its meeting on September 13, 2016.

Tony Caruso
Department Head

Manager's Comments:

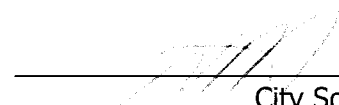

City Manager

Associated Information:

Budget Approval:


Finance Director

Legal Approval:


City Solicitor

Introduced for

☒ **Passage**
☐ **First Reading**
☐ **Referral**

SEPTEMBER 26, 2106

Assigned to Councilor Baldacci



CITY OF BANGOR

(TITLE.) Order, Authorizing the City Manager to Execute an Off-Airport Car Rental Agreement with Rent-A-Wreck of Bangor to Provide Car Rental Services

WHEREAS, The City of Bangor, Maine is the owner of an airport located in Bangor, County of Penobscot, State of Maine, commonly known as Bangor International Airport (BGR); and

WHEREAS, automobile rental services at BGR are useful for the proper accommodation of passengers arriving at and departing from BGR; and

WHEREAS, the commercial use of BGR which includes Godfrey Boulevard, is prohibited without the express written consent of the Owner; and

WHEREAS, Rent-A-Wreck desires to pick up automobile rental customers arriving at BGR and is willing to compensate Owner for this privilege.

NOW, THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BANGOR, THAT:

That Catherine M. Conlow, City Manager, is hereby authorized on behalf of the City of Bangor to execute a 5 year Off-Airport Car Rental Agreement with Rent-A-Wreck of Bangor to provide car rental services at Bangor International Airport. The agreement will be in final form as approved by the City Solicitor or Assistant City Solicitor.

COUNCIL ACTION

Item No. 16-355

Date: September 26, 2016

Item/Subject: ORDER, Authorizing the execution of a lease renewal between the City of Bangor and the Maine Highlands for office space within Building 121, of the General Aviation terminal at Bangor International Airport.

Responsible Department: Airport

Commentary:

This Order will authorize the execution of a lease renewal with Maine Highlands. Maine Highlands is part of the Maine Tourism Marketing Partnership Program (MTMPP) which develops and implements programs designed to stimulate and expand the travel industry within Maine's tourism regions. It is also intended to strengthen the State's image by coordinating the promotional efforts of the private sector with those of the Office of Tourism.

If approved, the lease includes the following terms: Maine Highlands will lease approximately 203 sf of office space in the General Aviation terminal at a rate of \$235 per month including utility costs; the term of the lease is for one year and includes two (2) one-year renewals. The agreement will be in final form as approved by City Legal. This item was reviewed and recommended for approval by the Airport Committee at its meeting on September 13, 2016.

Tony Caruso
Department Head

Manager's Comments:

Calvin Case
City Manager

Associated Information:

Budget Approval:

Alison
Finance Director

Legal Approval:

John
City Solicitor

Introduced for

☒ **Passage**
☐ **First Reading**
☐ **Referral**

SEPTEMBER 26, 2106



Assigned to Councilor Nealley

CITY OF BANGOR

(TITLE.) ORDER, Authorizing the execution of a lease renewal between the City of Bangor and the Maine Highlands for office space within Building 121, of the General Aviation terminal at Bangor International Airport.

WHEREAS, the City of Bangor, Maine is the owner of an airport located in Bangor, County of Penobscot, State of Maine, commonly known as Bangor International Airport; and

WHEREAS, the Maine Highlands desires to lease office space within Building 121 of the airport's General Aviation terminal, comprised of approximately 203 square feet, located at Bangor International Airport; and

WHEREAS, Maine Highlands will lease this office space exclusively to operate a Maine travel and tourism business.

NOW, THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BANGOR,

That Catherine M. Conlow, City Manager, is hereby authorized on behalf of the City of Bangor to execute the renewal lease agreement with the Maine Highlands for office space. The agreement will be in final form as approved by the City Solicitor or Assistant City Solicitor.

COUNCIL ACTION

Item No. 16-356**Date:** September 26, 2016

Item/Subject: ORDER, Authorizing Execution of Modification Agreement for Maine Department of Transportation Local Project – WIN 018645.00, Independent Street and Water Street Traffic Signal Improvements

Responsible Department: Engineering

Commentary: This order would authorize the City Manager to execute a Local Project Modification Agreement with the Maine Department of Transportation for preliminary engineering and construction work for traffic signal improvements at the intersection of Independent Street and Water Street.

The modification agreement would change the project name from Independence and Water Street Traffic Signal Improvements to read Independent Street and Water Street Traffic Signal Improvements.


No changes have been made to the funds originally agreed upon. The Maine Department of Transportation had approved federal and state funds in an amount not to exceed \$262,543.00 which includes a Federal share of \$210,034.40 or 80% of construction costs, State share of \$26,254.30 or 10% of construction costs, and a City share of funding of \$26,254.30 or 10% of construction costs.

The original agreement was reviewed and recommended for approval by the Infrastructure Committee at its March 24, 2015 meeting and approved by Council on April 13, 2015, Council Order #15-129.

The modification agreement was reviewed and approved by the Infrastructure Committee on September 13, 2016.

John Theriault, City Engineer
Department Head

Manager's Comments:


City Manager

Associated Information: Councilor Order and Agreement

Budget Approval:


Finance Director

Legal Approval:


City Solicitor

Introduced for

☒ **Passage CONSENT**
☐ **First Reading**
☐ **Referral**

Page __ of __



Assigned to Councilor Sprague

CITY OF BANGOR

(TITLE.) ORDER, Authorizing the Execution of Modification Agreement for Maine Department of Transportation Local Project – WIN #018645.00, Independent Street and Water Street Traffic Signal Improvements

ORDERED,

THAT: the City Manager is hereby authorized and directed to execute a modification agreement with the Maine Department of Transportation for the following:

A Modification Agreement with the Maine Department of Transportation – Independent Street and Water Street Traffic Signal Improvements, WIN# 018645.00

Copy of the agreement is attached.



MaineDOT use only

TEDOCS #: _____
AMS ID #: CTM2015060800000000786
CSN: 34533

MAINE DEPARTMENT OF TRANSPORTATION
Modification 1 to a Locally Administered Project Agreement

With the
City of Bangor
Regarding

Traffic Signal Improvements at Independent Street and Broad Street

(MaineDOT Use Only)

Total Agreement Amount: \$262,543.00	MaineDOT WIN: 018645.00
Federal Award Amount: \$210,034.40 (80%)	Federal Project Number: NHPP-1864(500)
State Match: \$26,254.30 (10%)	Federal Authorization Date: May 22, 2015
Municipal Match: \$26,254.30 (10%)	Bangor's Vendor ID: VC1000007010
Effective Date: May 27, 2015	Bangor's DUNS® Number: 07-173-9692
Expiration Date: May 31, 2019	CFDA #20.205: Highway Planning & Construction

Modification 1 applies to an Agreement between MaineDOT and the City of Bangor for the project referenced above that took effect on May 27, 2015. When executed, this modification will revise the scope of work to match the description in the MaineDOT Work Plan, as follows:

☐ **Article 1. Project Overview – Section A: Scope of Work.**

This section shall be modified to read as follows: "This Agreement shall apply to preliminary engineering and construction work for traffic signal improvements at the intersection of Independent Street and Broad Street (the **Project**.) Any substantial change to this scope of work shall require approval from **BACTS** and **MaineDOT** to be eligible for federal and state funding."

All other terms and conditions of the original Agreement shall remain in effect with no gap. **MaineDOT** and the **City of Bangor**, by their duly authorized representatives, have executed this modification to the original Agreement on the date last signed below.

City of Bangor

Maine Department of Transportation

By: _____
Catherine M. Conlow, City Manager

By: _____
Catherine Rand, Project Manager

Date: _____

Date: _____

COUNCIL ACTION

Item No. 16-357**Date:** September 26, 2016

Item/Subject: ORDER, Authorizing Execution of a Modification Agreement for Maine Department of Transportation Local Project – WIN 021767.00, Improvements to the River Walk along the Penobscot River.

Responsible Department: Engineering

Commentary: This order would authorize the City Manager to execute of a Local Project Modification Agreement in the amount of \$461,630 with the Maine Department of Transportation for design, right-of-way, construction, and construction engineering for reconstruction of 750 feet of waterfront sidewalk behind the Sea Dog Restaurant, and construction of new sidewalk for 180 feet along Front Street.

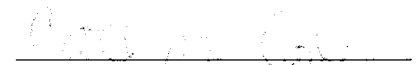
Under the terms of the modification, the State/Federal contribution will increase the project total to \$461,630 with an increase the State/Federal contribution to \$369,304 (80%) and increase the municipal share to \$92,326 (20%).

The original agreement was reviewed and recommended for approval by the Infrastructure Committee at its April 12, 2016 meeting and approved by the Council on April 25, 2016, Council Order #16-162.

The modification agreement was reviewed and approved by the Infrastructure Committee on September 13, 2016.

John M. Theriault, City Engineer
Department Head

Manager's Comments:

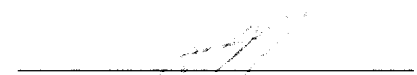

City Manager

Associated Information: Councilor Order and Agreement

Budget Approval:


Finance Director

Legal Approval:


City Solicitor

Introduced for

☒ **Passage**
☐ **First Reading**
☐ **Referral**

Page __ of __



Assigned to Councilor Nichols

CITY OF BANGOR

(TITLE.) ORDER, Authorizing Execution of a Modification Agreement for Maine Department of Transportation Local Project – WIN #021767.00, Improvements to the River Walk along the Penobscot River

ORDERED,

THAT: the City Manager is hereby authorized and directed to execute a modification agreement with the Maine Department of Transportation for the following:

A Modification Agreement with the Maine Department of Transportation – Improvements to the River Walk along the Penobscot River, WIN # 021767.00

Copy of the agreement is attached.



MaineDOT use only	
AMS ID:	CTM2016080400000000072
CSN:	36344
TEDOCS #:	

MAINE DEPARTMENT OF TRANSPORTATION
Modification 1 to a Locally Administered Project Agreement

With
City of Bangor
Regarding

Improvements to the River Walk along the Penobscot River: WIN 021767.00

Modified Agreement Amount: <u>\$461,630</u>	Federal Project #: <u>HPP-2176(700)</u>
Federal Share: <u>\$369,304 (80%)</u>	Project Authorization Date: <u>May 27, 2016</u>
Municipal Share: <u>\$92,326 (20%)</u>	Bangor's Vendor ID: <u>VC1000007010</u>
Effective Date: <u>June 16, 2016</u>	Bangor's DUNS® Number: <u>07-173-9692</u>
Expiration Date: <u>June 30, 2021</u>	CFDA #20.205: <u>Highway Planning & Construction</u>

Modification 1 applies to a sub-award agreement with the City of Bangor for the project referenced above that took effect June 16, 2016. When executed, this latest modification will add \$200,000 to the Agreement, increasing the upset limit to \$461,630, as follows:

☐ **Article 1, Project Overview – Section B: Funding.**

This section shall be modified to read as follows: The estimated cost of the **Project** is four hundred sixty-one thousand six hundred thirty dollars (**\$461,630**) to be shared as set forth in Article 3, "Financial Provisions." **Project** costs exceeding this upset limit shall require **MaineDOT's** written approval to be eligible for funding from **MaineDOT**.

☐ **Article 3, Financial Provisions – Section A: MaineDOT Share.**

This section shall be modified to read as follows: **MaineDOT** will participate financially in **Project** costs eligible for funding from the Federal Highway Administration at the rate of eighty percent (**80%**), up to a maximum contribution at this rate of three hundred sixty-nine thousand three hundred four dollars (**\$369,304.**)

☐ **ARTICLE 3, Financial Provisions – Section B: Local Share.**

This section shall be modified to read as follows:

The **City**, with funding other than from the U.S. Department of Transportation, shall share in all federally eligible **Project** costs at the rate of twenty percent (**20%**), or an estimated contribution of ninety-two thousand three hundred twenty-six dollars (**\$92,326**). Furthermore, the **City** shall be responsible in full for any **Project** expenditures:

1. Incurred before the original execution date of the Agreement – June 16, 2016;
2. Deemed ineligible for federal financial participation; and
3. Exceeding the upset limit of this Agreement, as set forth in Article 1B, "Funding."

All other terms and conditions of the original Agreement shall remain in effect with no gap. **MaineDOT** and the **City of Bangor**, by their duly authorized representatives, have executed this latest modification to the original Agreement on the date last signed below.

City of Bangor

Maine Department of Transportation

By: _____
Catherine M. Conlow, City Manager

By: _____
William A. Pulver, P.E., Director
Bureau of Project Development

Date: _____

Date: _____

COUNCIL ACTION

Item No. 16-358**Date:** September 26, 2016**Item/Subject:** Order, Amending the City of Bangor Procurement Policy**Responsible Department:** Finance

Commentary:

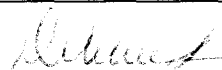
In 2013, the City of Bangor became a direct recipient of Federal Transit Administration (FTA) funding for the Community Connector. As a result of a recent audit, the City was required to bring its purchasing policy and procedures into compliance with FTA rules. If approved, the proposed changes will bring the City in compliance with FTA regulations for competitive purchasing when FTA funds are used. The proposed changes are generally complementary to the City's current procedures.

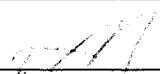
This amendment was reviewed and recommended for approval by the Finance Committee on September 19, 2016.

_____
Department Head

Manager's Comments:_____
City Manager

Associated Information: Order, Procurement Policy

Budget Approval:_____
Finance Director

Legal Approval:_____
City Solicitor

Introduced for

☒ **Passage**
☐ **First Reading**
☐ **Referral**

Page **of**



Assigned to Councilor Durgin

CITY OF BANGOR

(TITLE.) Order, Amending the City of Bangor Procurement Policy

By the City Council of the City of Bangor:

ORDERED, THAT the City of Bangor Procurement Policy is hereby amended to ensure compliance with FTA regulations for purchases funded with FTA funds.

CITY OF BANGOR
PROCUREMENT
POLICY

as adapted

from

The Model Procurement Ordinance
for Local Governments

By

The American Bar Association

in cooperation with

The National Institute of Governmental
Purchasing

Adopted by the Bangor City Council
January 10, 1994

Revised June, 1997

Revised October 27, 2003

Revised March 28, 2011 (CO11-110)

Revised October 24, 2011 (CO11-313)

Revised September 26, 2016

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ARTICLE 1 GENERAL PROVISIONS

Part A - Purpose and Application

1-101 Purpose.

The Purpose of this Policy is to provide for the fair and equitable treatment of all persons involved in public purchasing by the City of Bangor, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

This policy is also intended to ensure that City of Bangor complies with Federal Transit Administration (FTA) standards to ensure full and open competition consistent with:

- FTA Circular 4220.1F "Third Party Contracting Guidance" or latest version thereof;
- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200 (referred to now as the "Super Circular" and which replaced and consolidated OMB Circulars A-87, A-102, A-110, A-122, and A-133);
- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR part 1201, which replaces 49 CFR parts 18 and 19

Purchases made with any FTA funds for the transit program must follow the specific FTA requirements as outlined in this Policy. Purchases made with local funds only and for purposes other than transit may follow the City of Bangor's requirements.

1-102 Application.

1. This Policy applies to contracts for the procurement of supplies, services, and construction, entered into by the City of Bangor after the effective date of this Policy, unless the parties agree to its application to contracts entered into prior to the effective date. It shall apply to every City of Bangor expenditure irrespective of the source of the funds. When the procurement involves the expenditure of Federal assistance or contract funds, such as with the Federal Transit Administration and Community Development Block Grant Program (See Article 14), the procurement shall be conducted in accordance with any mandatory applicable Federal law and regulations. Nothing in this Policy shall prevent any City department from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.
2. Prohibited Practices for FTA Funded Procurements:
Solicitations with requirements that contain features that unduly restrict competition may not be used. City of Bangor shall not:
 - Impose unreasonable business requirements for bidders or offerors.
 - Impose unnecessary experience requirements for bidders and offerors.
 - Use prequalification procedures that are restrictive of competition.

- Make a noncompetitive award to any person or firm on a retainer contract with City of Bangor, if that award is not for the property or services specified for delivery under the retainer contract.
- Impose unreasonable restrictive bonding requirements on bidders and offerors in excess of FTA and state requirements.
- Specify only a "brand name" product without allowing offers of an "equal" product, or allowing an "equal" product without listing the salient characteristics that the "equal" product must meet to be acceptable for award.
- Specify in-state or local geographical preferences, or evaluating bids or proposals in light of in-state or local geographic preferences, even if those preferences are imposed by State or local laws or regulations. The only exception expressly mandated or encouraged by Federal law that may be applicable to City of Bangor is the procurement of Architectural and Engineering (A&E) Services. Geographic location may be a selection criterion in the procurement of A&E services if an appropriate number of qualified firms are eligible to compete for the contract in view of the nature and size of the project.
- Engage in practices that result in organizational conflicts of interest. An organizational conflict of interest occurs when any of the following circumstances arise:
 - Lack of Impartiality or Impaired Objectivity – When the bidder or offeror is unable, or potentially unable, to provide impartial and objective assistance or advice to City of Bangor due to other activities, relationships, contracts, or circumstances.
 - Unequal Access to Information – When the bidder or offeror has an unfair competitive advantage through obtaining access to nonpublic information during the performance of an earlier contract.
 - Biased Ground Rules – When during the conduct of an earlier procurement, the bidder or offeror has established the ground rules for a future procurement by developing specifications, evaluation factors, or similar documents.
- Support or acquiesce in noncompetitive pricing practices between firms or between affiliated companies.
- Take any arbitrary action in the procurement process.
- Use tag-ons where work is added that is beyond the scope of the original contract.

Part B - Definitions

1-201 Definitions.

- (1) Architect, Engineer and Land Surveying Services. Those professional services within the scope of the practice of architecture, professional engineering, or land surveying, as defined by the laws of the State of Maine.
- (2) Brand Name or Equal Specification. A specification limited to one or more items by manufacturers' names or model numbers to describe the standard of quality, performance, and other salient characteristics needed to meet the City of Bangor's requirements, and which provides for the submission of equivalent products.
- (3) Brand Name Specification. A specification limited to one or more items by manufacturers' names or model numbers.
Brand Name Requirement for FTA Funded Procurements:

If used, salient characteristics must be listed so that alternatives can be proposed under Federally funded procurements.

- (4) **Business.** Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
- (5) **Change Order.** A written order signed by the City Manager, authorizing the contractor to make changes.
- (6) **Contract Modification.** Any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.
- (7) **Construction.** The process of building, altering, repairing, improving, or demolishing any structure or building, or other improvements of any kind. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.
- (8) **Contract.** All types of City of Bangor agreements, regardless of what they may be called, for the procurement of supplies, services, or construction.
- (9) **Contractor.** Any person having a contract with the City of Bangor or a using agency thereof.
- (10) **Cost Analysis.** The evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be reimbursed, including profits.
- (11) **Employee.** An individual drawing a salary or wages from the City of Bangor, whether elected or not; any noncompensated individual performing personal services for the City or any department, agency, commission, council, board, or any other entity established by the executive or legislative branch of the City; and any noncompensated individual serving as an elected official of the City.
- (12) **Financial Interest.**
 - (a) Direct or indirect ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, more than \$500 per year, or its equivalent;
 - (b) Direct or indirect ownership of 10% of any property or business to include 10% of the stock of a private corporation; or
 - (c) Holding a position in a business such as officer, director, trustee, partner, employee, or the like, or holding any position of management.

- (13) Person(s). Any business, individual, union, committee, club, other organization, or group of individuals.
- (14) Price Analysis. The evaluation of price data, without analysis of the separate cost components and profit as in cost analysis, which may assist in arriving at prices to be paid and costs to be reimbursed.
- (15) Pricing Data. Factual information concerning prices for items substantially similar to those being procured. Prices in this definition refer to offered or proposed selling prices, historical selling prices and current selling prices. The definition refers to data relevant to both prime and subcontract prices.
- (16) Procurement. The buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection, and solicitation of sources, preparation and award of contract, and all phases of contract administration.
- (17) Request for Bids (Sealed Bids). All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.
- (18) Request for Proposals/Qualifications. All documents, whether attached or incorporated by reference, utilized for soliciting proposals/qualifications.
- (19) Responsible Bidder or Offeror. A person who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit which will assure good faith performance.
- (20) Responsive Bidder. A person who has submitted a bid which conforms in all material respects to the requirements set forth in the request for bids.
- (21) Services. The furnishing of labor, time, or effect by a contractor, not involving the delivery of a specific product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements.
- (22) Specifications. Any description of the physical or functional characteristics or of the nature of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.
- (23) Supplies. All property, including but not limited to equipment, materials, printing, insurance, and leases of real property, excluding land or a permanent interest in land.

Part C - Public Access to Procurement Information

1-301 Public Access to Procurement Information.

Procurement information shall be a public record to the extent provided in 1 MRSA Section 401 et. seq. and shall be available to the public as provided in such statute.

1-302 Authorization to Use Electronic Transmissions

The use of electronic media, including acceptance of electronic signatures, is authorized consistent with the City's applicable statutory, regulatory or other guidance for use of such media, so long as such guidance provides for:

- (a) appropriate security to prevent unauthorized access to the bidding, approval and award processes; and
- (b) accurate retrieval or conversion of electronic forms of such information into a medium which permits inspection and copying.

ARTICLE 2 - OFFICE OF THE PURCHASING AGENT

2-101 Establishment, Appointment, and Tenure.

- (1) Establishment of the Position of Purchasing Agent. There is hereby created the position of Purchasing Agent, who shall be the City's principal public purchasing official.
- (2) Appointment. The City Manager or his or her designee shall act as Purchasing Agent until or unless the City Council by ordinance shall provide for the appointment of a Purchasing Agent.
- (3) Tenure. The Purchasing Agent shall be appointed to serve an indefinite term and may be removed from office by the City Manager in accordance with City Policy.

2-102 Authority and Duties.

- (1) Principal Public Purchasing Official. Except as otherwise provided herein, the Purchasing Agent shall serve as the principal public purchasing official for the City, and shall be responsible for the procurement of supplies, services, and construction in accordance with this Policy, as well as the management and disposal of supplies.
- (2) Authority. The Purchasing Agent shall have the authority to award bids and/or contracts where the value is \$50,000 or less under the following conditions:
 - (a) funding for the item or service has been approved in the current year budget; and
 - (b) the recommendation is to award to the low bidder; and
 - (c) the City has previous experience with the bidder; and

- (d) where vendors, staff, Councilors or members of the public have not expressed concern/or heightened interest in some form about the item bid or the bid process itself.

All bids or contracts awarded under this section shall be reported to the Finance Committee on a monthly basis.

- (3) Duties. In accordance with this Policy, and subject to the supervision of the City Manager, the Purchasing Agent shall:
 - (a) procure or supervise the procurement of all supplies, services, and construction needed by the City;
 - (b) sell, trade, or otherwise dispose of surplus supplies belonging to the City; and
 - (c) establish and maintain programs for specifications development, contract administration, inspection and acceptance, in cooperation with the departments using the supplies, services, and construction.
- (4) Operational Procedures. Consistent with this Policy, and with the approval of the City Manager, the Purchasing Agent may adopt operational procedures relating to the execution of his/her duties.

2-103 Delegations to Other City Officials.

With the approval of the City Manager, the Purchasing Agent may delegate authority to purchase certain supplies, services, or construction items or used vehicles and equipment to other City officials, if such delegation is deemed necessary for the effective procurement of those items. Procurement guidelines may be waived for the purchase of used vehicles or equipment after coordination with the Purchasing Agent. Written documentation consistent with purchasing guidelines must be available for all such purchases. Purchases of used vehicles or equipment in excess of \$10,000 must be reported to the Finance Committee.

ARTICLE 3 - SOURCE SELECTION AND CONTRACT FORMATION

Part A - Methods of Source Selection

3-101 Competitive Sealed Bidding.

- (1) Conditions for Use. All contracts of the City shall be awarded by competitive sealed bidding except as otherwise provided in Sections 3-102 (Request for Proposals/Qualifications), 3-103 (Contracting for Designated Professional Services), 3-104 (Purchases), 3-105 (Sole Source Procurement), and 3-106 (Emergency Procurements).

(2) FTA Requirements for Sealed Bids:

The sealed bid method of procurement is a formal method in which bids are publicly solicited and a firm fixed price contract is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the Invitation for Bids, is lowest in price. The vehicle through which bids are solicited is an Invitation for Bids (IFB). The IFB document contains technical specifications for the product or service to be purchased, a description of the procedures for submitting a bid, and the forms on which bids must be submitted.

(a) When Appropriate – The sealed bid method of procurement is the preferred method for acquiring products and services that, including construction services, cost greater than \$100,000. The sealed bid method of procurement may also be used for small purchases if it is determined to be appropriate. The sealed bid method of procurement is appropriate if the following conditions apply:

- (1) Precise Specifications – A complete, adequate, precise, and realistic specification or purchase description is available.
- (2) Adequate Sources – Two or more responsible bidders are willing and able to compete effectively for the business.
- (3) Fixed Price Contract – The procurement generally lends itself to a firm fixed price contract.
- (4) Price Determinative – The successful bidder can be selected on the basis of price and those price-related factors listed in the solicitation including, but not limited to, transportation costs, life cycle costs, and discounts expected to be taken. Apart from responsibility determinations, contractor selection may not be determined on the basis of other factors whose costs cannot be measured at the time of award.
- (5) Discussions Unnecessary – Discussions with one or more bidders after bids have been submitted are expected to be unnecessary as award of the contract will be made based on price and price-related factors alone.

(b) Requirements for Sealed Bids – The following requirements apply to the sealed bid method of procurement:

- (1) Publicity – The Invitation for Bids must be publicly advertised.
 - i. The Director of Finance shall ensure that sufficient time is allowed to prepare bids before the date of bid opening.
 - ii. Notice of bidding opportunities may be provided in other ways in addition, but not as a substitute, to a published notice. The methods may include, but not necessarily be limited to:
 - a. Direct notice, based on compiled vendor lists or from pre-qualification list, sent to prospective offerors; or
 - b. Use of advertisement by electronic means.
- (2) Adequate Sources – Bids must be solicited from an adequate number of known suppliers.
- (3) Adequate Specifications – The Invitation for Bids, including any specifications and pertinent attachments, must describe the property or services sought in sufficient detail that a prospective bidder will be able to submit a proper bid.

- (4) Sufficient Time – Bidders must be allowed sufficient time to prepare bids before the date of bid opening.
 - (5) Public Opening – All bids must be publicly opened at the time and place prescribed in the Invitation for Bids.
 - (6) Fixed Price Contract – A firm fixed price contract must be awarded in writing to the lowest responsive and responsible bidder unless the Invitation for Bids specifically allowed for award of a fixed price incentive contract or the inclusion of an economic price adjustment provision.
 - (7) Rejection of Bids – Any or all bids may be rejected if there is a sound, documented business reason.
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- (3) Request for Bids. A request for bids shall include specifications, and all contractual terms and conditions applicable to the procurement.
 - (4) Public Notice. A public notice of the request for bids shall be given no less than seven (7) calendar days prior to the date set forth therein for the opening of bids. Such notice may include publication in a newspaper of general circulation or posting on the City's website. The public notice shall state the place, date, and time of bid opening.
 - (5) Bid Opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the request for bids. The amount of each bid, and such other relevant information as the Purchasing Agent deems appropriate, together with the name of each bidder shall be recorded; the record and each bid shall be open to public inspection in accordance with Section 1-301 (Public Access to Procurement Information).
 - (6) Bid Acceptance and Bid Evaluation. Bids shall be unconditionally accepted without alterations or correction, except as authorized in this Policy. Bids shall be evaluated based on the requirements set forth in the request for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose.

Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The request for bids shall set forth the evaluation criteria to be used. No criteria should be used in bid evaluation that are not set forth in the request for bids.
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- (7) Correction or Withdrawal of Bids; Cancellation of Awards. Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written or electronic notice received in the office designated in the request for bids prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening changes in bid prices may only be allowed if the bid price was based on incorrect information provided by the City. No other changes in bid prices or other provisions of bids prejudicial to the interest of the City or fair competition shall be

permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:

- (a) the mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
 - (b) the bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Purchasing Agent.
- (8) Award. The contract shall be awarded with reasonable promptness by appropriate notice to the bidder whose bid best meets the requirements and criteria set forth in the request for bids. In the event the bid for a construction project exceeds available funds as certified by the Finance Director, does not exceed such funds by more than five (5) percent, the Purchasing Agent is authorized, when time or economic considerations preclude resolicitation of work of a reduced scope, to negotiate an adjustment of the bid price in order to bring the bid within the amount of available funds. Any such negotiated adjustment shall be based only upon eliminating independent deductive items specified in the request for bids.
- (9) Multi-Step Sealed Bidding. When it is considered impractical to prepare initially a purchase description to support an award based on identified criteria, a request for bids may be issued requesting the submission of unpriced offers to be followed by a request for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.

3-102 Request for Proposals/Qualifications.

- (1) Conditions for Use. When the Purchasing Agent determines that the use of competitive sealed bidding is either not practicable or not advantageous to the City, a contract may be entered into by use of a request for proposals/qualifications.
- (2) Conditions for FTA Funded Procurements:
When Appropriate – The competitive proposal method of procurement is appropriate for the acquisition of products and services that cost greater than \$100,000 when the nature of the procurement does not lend itself to sealed bidding and City of Bangor expects that more than one source will be willing and able to submit a proposal. The competitive proposal method of procurement may also be used for small purchases if it is determined to be appropriate. The competitive proposal method of procurement may not be used for the procurement of construction services, unless it is a Design-Build Procurement. The competitive proposal method of procurement is appropriate when any of the following circumstances are present:
 - (1) Type of Specifications – The products or services to be acquired are described in a performance or functional specification, or if described in detailed technical specifications, other circumstances such as the need for

discussions or the importance of basing contract award on factors other than price alone are present.

- (2) Uncertain Number of Sources – Uncertainty about whether more than one bid will be submitted in response to an Invitation for Bids.
 - (3) Price Alone Not Determinative – Due to the nature of the procurement, contract award need not be based exclusively on price or price-related factors.
 - (4) Discussions Expected – Separate discussions with individual offerors are expected to be necessary after they have submitted their proposals.
- (3) Public Notice. Adequate public notice of the request for proposals/qualifications shall be given in the same manner as provided in Section 3-101(3) (Competitive Sealed Bidding, Public Notice).
- (4) Evaluation Factors. The request for proposals/qualifications should include all evaluation factors and selection criteria that will be used in the evaluation process. All evaluation factors cited in the request shall be considered equal unless the relative importance of such factors is so noted or assigned to each factor listed in the request for proposal/qualifications.
- (5) Discussion with Responsible Offerors and Revisions to Proposals/Qualifications. As provided in the request for proposals/qualifications, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers.
- (6) Award. Award shall be made to the responsible offeror whose proposal/qualification is determined to be the most advantageous to the City, taking into consideration price and the evaluation factors set forth in the request for proposals/qualifications. The contract file shall contain the basis on which the award is made.

3-103 Contracting for Designated Professional Services.

- (1) Procurement of Services. For the purpose of procuring the services of accountants, lawyers, appraisers, construction contract manager, architect, engineer, land surveyor or other professionals Section 3-102 (Request for Proposals/Qualifications) shall be used except as provided under Section 3-105 (Sole Source Procurement) or Section 3-106 (Emergency Procurement)

3-104 Revenue Contracts

- (1) FTA Requirements for Revenue Contracts:
City of Bangor may enter into a revenue contract with a third party to generate revenues in connection with a transit related activity, or to create business opportunities utilizing an

FTA funded asset. Any such said contract opportunity will follow competitive selection procedures and principles outlined herein.

3-105 Purchases.

- (1) General. Any contract costing less than \$10,000 may be made in accordance with the purchase procedures authorized in this Section. Contract requirements shall not be artificially divided so as to constitute a purchase under this Section.
- (2) Purchases costing \$2,000 but less than \$10,000. In so far as it is practical, no less than three businesses shall be solicited to submit written quotations on vendor letterhead. Award shall be made to the business offering the lowest acceptable quotation. The names of the businesses submitting quotations, and the date and amount of each quotation, shall be recorded and maintained as a public record. All pricing information shall be sent directly to the Purchasing Agent.
- (3) Purchases costing over \$500 but less than \$2,000. The Purchasing Agent shall adopt operational procedures for making purchases of \$500 - \$2,000. Such operational procedures shall provide for obtaining adequate and reasonable competition for the supply, service, or construction being purchased; further, such operational procedures shall require the preparation and maintenance of written records adequate to document the competition obtained, properly account for the funds expended, and facilitate an audit of the purchase made.
- (4) Purchases costing up to \$500. Purchases of up to \$500 may use a single selection, after contact, based on reasonable price, stock availability and delivery requirements.
- (5) Purchase Thresholds for FTA Funded Procurements:
Requirements applicable to micro-purchases (\$3,000 or less):
 - (1) Competition not required,
 - (2) Must document determination that price is fair and reasonable and how the determination was derived,
 - (3) Prohibit splitting of procurements to avoid competition, and
 - (4) When competition is not obtained, require equitable distribution among qualified suppliers.

Requirements applicable to small purchase threshold (from \$3,000 to \$100,000):

- (1) Must obtain price or rate quotations from an adequate number of qualified sources, and
- (2) Document file that price is fair and reasonable.

Required Competition

Price or rate quotations must be obtained from an adequate number of qualified sources. It is the responsibility of City of Bangor to ensure that an adequate number of quotations, bids, or proposals are received.

Prohibited Divisions

The size or dollar value of procurements may not be divided or reduced merely to come within the small purchase limit. The only allowable exception to this restriction is for the express purpose of fostering greater participation of DBE, small and minority firms and women's business enterprises in City of Bangor Federally-assisted procurements.

Documentation

Every small purchase must be documented in the grantee's written procurement history file. Contracts above the small purchase threshold must contain remedies for breach of contract. Contracts in excess of \$10,000 must have termination for cause and termination for convenience provisions.

Requirements applicable for large purchase greater than \$100,000:

Definition: Large purchases are those purchases of products and services that cost greater than Formal Threshold or the Federal threshold of \$100,000.

Large purchases must be made through the formal methods found in other sections of this policy. See, e.g., sections 3-101, 3-106.

City of Bangor reserves the right to use formal purchase methods instead of the micro-purchase or small purchase methods described herein, even if small purchase thresholds are met, if the Director of Finance believes it is in the best interests of the City of Bangor to do so.

3-106 Sole Source Procurement.

- (1) A contract may be awarded without competition when the Finance Committee determines after conducting a good faith review of available sources, that there is only one source for the required supply, service, or construction item. The Purchasing Agent or respective department head shall conduct negotiations, as appropriate, as to price, delivery, and terms. A record of sole source procurements shall be maintained as a public record and shall list each contractor's name, the amount and type of each contract, a listing of the item(s) procured under each contract, and the identification of each contract file.
- (2) Sole Source Requirements for FTA Funded Procurements: *Note: Change Orders beyond the scope of the contract are treated as Sole Source Procurements
When City of Bangor requires products or services available from only one responsible source, and no other products or services will satisfy its requirements, City of Bangor may make a sole source award with the prior approval of FTA or if otherwise allowed by the conditions below. Note that while the City of Bangor may contact FTA for prior approval, this approval is not required. In addition, when City of Bangor requires an existing

contractor to make a change to its contract that is beyond the scope of that contract, City of Bangor has made a sole source award that must be justified. Sole source awards are only appropriate when one of the following conditions apply:

- (a) Unique Capability or Availability – The products or services are available from a single source if one of the conditions described below is present:
- (1) Unique or Innovative Concept – The offeror demonstrates a unique or innovative concept or capability not available from another source. Unique or innovative concept means a new, novel, or changed concept, approach, or method that is the product of original thinking, the details of which are kept confidential or are patented or copyrighted, and is available to City of Bangor only from one source and has not in the past been available to City of Bangor from another source.
 - (2) Patents or Restricted Data Rights – Patent or data rights restrictions preclude competition.
 - (3) Substantial Duplication Costs – In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in substantial duplication of costs that are not expected to be recovered through competition.
 - (4) Unacceptable Delay – In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in unacceptable delays in fulfilling City of Bangor needs.
- (b) Procurement by noncompetitive negotiation may be used only when the award of a contract is not feasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances exists:
- The item is available only from a single source;
 - A public urgency or emergency for the item exists which will not permit a delay resulting from competitive solicitation;
 - FTA authorizes noncompetitive negotiations;
 - After solicitation of a number of sources, competition is determined inadequate; or
 - The item is an associated capital maintenance item as defined in 49 USC 5307(a)(1) et seq. that is procured directly from the original manufacturer or supplier of the item to be replaced. The grantee must first certify that such manufacturer or supplier is the only source for the item and the price of the item is no higher than the price paid for item by like customers; and
 - Cost analysis, *i.e.*, verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of cost and profit, is required.
- (c) Single Bid or Proposal – Upon receiving a single bid or proposal in response to a solicitation, City of Bangor should determine if competition was adequate. This should include a review of the specifications for undue restrictiveness and might include a survey of potential sources that chose not to submit a bid or proposal.

- (1) Adequate Competition – Competition is adequate when the reasons for a single response were caused by conditions beyond City of Bangor control.
 - (2) Inadequate Competition – Competition is inadequate when the reasons for a single response were caused by conditions within City of Bangor control.
- (d) Unusual and Compelling Urgency – City of Bangor may limit the number of sources from which it solicits bids or proposals when City of Bangor has such an unusual and urgent need for the products or services that City of Bangor would be seriously injured unless it were permitted to limit the solicitation. City of Bangor may also limit the solicitation when the public exigency or emergency will not permit a delay resulting from competitive solicitation for the products or services.
- (e) Authorized by FTA – City of Bangor may request permission from FTA to allow it to use noncompetitive proposals for a particular procurement.
- (f) Procurement Procedures – The following requirements apply when City of Bangor completes a procurement utilizing less than full and open competition:
 - (1) Potential Sources – City of Bangor must solicit offers from as many potential sources as is practicable under the circumstances.
 - (2) Sole Source Justification – City of Bangor must justify all sole source procurements in writing. Sole source procurement justifications must describe the reasons for why a sole source procurement is appropriate, state which of the authorized justifications listed in 3-106(a)-(e) are applicable, include a cost analysis and be signed by the Director of Finance. If City of Bangor decides to solicit an offer from only one source, City of Bangor must justify its decision in writing. The written justification must include the same elements as a sole source justification except that it must state which of the authorized justifications listed in 3-106(a)-(e) are applicable to the sole source purchase.
 - (3) Cost Analysis – City of Bangor must prepare or obtain a cost analysis verifying the proposed cost data, the projections of the data, and the evaluation of the costs and profits. A price analysis shall not be adequate to justify a sole source purchase.

3-107 Emergency Procurements.

Notwithstanding any other provisions of this Policy, the Purchasing Agent may make or authorize others to make emergency procurements of supplies, services, or construction items when there exists a threat to public health, welfare, or safety; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, a listing of the item(s) procured under the contract, and the identification of the contract file.

3-108 Tie Bids.

Tie bids shall be resolved by the drawing of lots or the flip of a coin. Such tie breaking procedures shall be performed by the Purchasing Agent in the presence of one or more witnesses and reported to the Finance Committee.

3-109 Cancellation of Request for Bids or Requests for Proposals/Qualifications.

A request for bids, a request for proposals/qualifications, or other solicitation may be canceled, or any or all bids or proposals/qualifications may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the best interest of the City. The reasons therefor shall be made part of the contract file.

Each solicitation issued by the City shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interests of the City.

Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any resolicitation of any future procurement of similar items.

Part B - Qualifications and Duties

3-201 Responsibility of Bidders and Offerors.

- (1) Determination of Nonresponsibility. If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility, setting forth the basis of the finding, shall be prepared by the Purchasing Agent. Any grounds which would give the City the right to demand adequate assurance or due performance as to an awarded contract under 11 MRSA §2-609 shall be deemed adequate grounds for a determination of nonresponsibility under this section. The unreasonable failure of a bidder or offeror to supply promptly information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility with respect to such bidder or offeror. A copy of the determination shall be sent promptly to the nonresponsible bidder or offeror. The final determination shall be made part of the contract file and be made a public record.
- (2) Responsibility Determination Requirements for FTA Funded Procurements: Before selecting a contractor for award, the recipient must consider such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See additional information in Section 6-105 regarding Debarment or Suspension.

3-202 Cost or Price Analysis.

- (1) A cost analysis or a price analysis, as appropriate, shall be conducted prior to award of the contract other than one awarded under Section 3-101 (Competitive Sealed Bidding).
- (2) Independent Cost Estimates for FTA Funded Procurements:
For every procurement over the micro-purchase threshold, City of Bangor shall make a written independent estimate of cost prior to receiving price quotes, bids or proposals.
- (3) Cost or Price Analysis for FTA Funded Procurements:
City of Bangor shall perform a cost or price analysis in connection with every procurement action above the Federal small acquisition threshold, including contract modifications.

Price Analysis:

If City of Bangor determines that competition was adequate, a written price analysis, rather than a cost analysis, is required to determine the reasonableness of the proposed contract price.

Cost Analysis:

City of Bangor must perform or obtain a cost analysis when:

- (a) A price analysis will not provide sufficient information to determine the reasonableness of the contract cost.
- (b) When the offeror submits elements of the estimated cost.
- (c) When only a sole source is available, even if the procurement is a contract modification.
- (d) In the event of a change order.

City of Bangor must perform cost and profit analysis when adequate price competition is lacking.

3-203 Bid and Performance Bonds on Service Contracts.

Bid and performance bonds or other security may be requested for service contracts as the Purchasing Agent deems advisable to protect the City's interests. Any such bonding requirements shall be set forth in the solicitation. Bid or performance bonds shall not be used as a substitute for a determination of a bidder or offeror's financial or other responsibility.

3-204 Insurance on Supply or Service Contracts.

Comprehensive general liability, fire hazard, property damage, workers compensation or other insurance coverage may be required in connection with any City contract, when the Purchasing Agent or City Solicitor deems such insurance is advisable to protect the City's interests. Any such insurance requirement shall be set forth in the solicitation. Insurance shall not be used as a substitute for a determination of the bidder or offeror's financial or other responsibility.

Part C - Types of Contracts and Contract Administration

3-301 Types of Contracts.

- (1) General Authority. Subject to the limitations of this Section, any type of contract which is appropriate to the procurement and which will promote the best interests of the City may be used, provided that the use of a cost-plus-a-percentage-of-cost contract is prohibited. A cost reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the City than any other type or that it is impracticable to obtain the supply, service, or construction item required except under such a contract.
- (2) Contract Type Requirement for FTA Funded Procurements:
Time and Materials Type Contracts may only be used:
 - (1) After a determination that no other type of contract is suitable, and
 - (2) If the contract specifies a ceiling price that the contractor shall not exceed except at its own risk.
- (3) Multi-Term Contracts.
 - (a) Specified Period. Unless otherwise provided by law, a contract for supplies or services may be entered into for any period of time deemed to be in the best interest of the City, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor.
 - (b) Determination Prior to Use. Prior to the utilization of a multi-term contract, it shall be determined:
 - (i) that estimated requirements cover the period of the contract and are reasonably firm and continuing; and
 - (ii) that such a contract will serve the best interests of the City by encouraging effective competition or otherwise promoting economies in the City's procurement.
 - (c) Cancellation Due to Unavailability of Funds in Succeeding Fiscal Periods. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled and the contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under the contract. The cost of cancellation may be paid from any appropriations available for such purposes.

(4) Multiple Source Contracting.

- (a) General. A multiple source award is an award of an indefinite quantity contract for one or more similar supplies or services to more than one bidder or offeror. The obligation to order the City's actual requirements is limited by the provision of Uniform Commercial Code, 11 MRSA §2-306(1).
- (b) Limitations on Use. A multiple source award may be made when award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, product compatibility, or to be in the City's best interest. Any multiple source award shall be made in accordance with the provision of Section 3-101 (Competitive Sealed Bidding), Section 3-102 (Request for Proposal/Qualification), Section 3-104 (Purchases), and Section 3-106 (Emergency Procurements), as applicable. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements.
- (c) Contract and Solicitation Provisions. All eligible users of the contract shall be named in the solicitation, and it shall be mandatory that the actual requirements of such users that can be met under the contract be obtained in accordance with the contract, provided that:
 - (i) the City shall reserve the right to take bids separately if a particular quantity requirement arises which exceeds its normal requirement or an amount specified in the contract; and
 - (ii) the City shall reserve the right to take bids separately if the Purchasing Agent approves a finding that the supply or service available under the contract will not meet a nonrecurring special need of the City.
- (d) Intent to Use. If a multiple source award is anticipated prior to issuing a solicitation, the City shall reserve the right to make such an award and the criteria for award shall be stated in the solicitation.
- (e) Determination Required. The Purchasing Agent shall make a written determination setting forth the reasons for a multiple source award, which shall be made a part of the procurement file.

3-302 Contract Clauses and Their Administration.

- (1) Contract Clauses. All City contracts for supplies, services, and construction shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The Purchasing Agent, after consultation with the City Solicitor, may issue clauses appropriate for supply, service, or construction contracts, addressing among others the following subjects:
 - (a) the unilateral right of the City to order in writing changes in the work within the scope of the contract;

- (b) the unilateral right of the City to order in writing temporary stopping of the work or delaying performance that does not alter the scope of the contract;
 - (c) variations occurring between estimated quantities of work in contract and actual quantities;
 - (d) defective pricing;
 - (e) liquidated damages;
 - (f) specified excuses for delay or nonperformance;
 - (g) termination of the contract for default;
 - (h) termination of the contract in whole or in part for the convenience of the City;
 - (i) suspension of work on a construction project ordered by the City;
 - (j) site conditions differing from those indicated in the contract, or ordinarily encountered, except that a differing site conditions clause need not be included in a contract:
 - (i) when the contract is negotiated;
 - (ii) when the contractor provides the site or design; or
 - (iii) when the parties have otherwise agreed with respect to the risk of differing site conditions.
 - (k) the right of the City to require that the contract be performed in compliance with all applicable City ordinances, building codes, and State and Federal laws;
 - (l) specifying whether and under what conditions contract disputes may be subject to binding or non-binding arbitration; and
 - (m) specifying what law is applicable to resolution or contract disputes.
- (2) **FTA Required Clauses for FTA Funded Procurements:**
- City of Bangor must ensure all Federal requirements, required clauses, and certifications (including Buy America) are properly followed and included, whether in the master intergovernmental contract or in the grantees purchase document. It is the City of Bangor's responsibility to ensure that the provisions are included and followed.
- If such requirements, clauses, and certifications were not included in the original purchase solicitation and contracts, due to an omission or a change in federal contract clause requirements, City of Bangor may request the vendor to append the required Federal clauses in the purchase order or other document that affects the City of Bangor procurement. When this method is used, City of Bangor shall obtain Buy America

certification before entering into the purchase order. This method cannot be used to circumvent FTA's Buy America requirements.

(3) Price Adjustments.

- a. Adjustments in price resulting from the use of contract clauses required by Subsection (1) of this Section shall be computed in one or more of the following ways:
 - (i) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
 - (ii) by unit prices specified in the contract or subsequently agreed upon;
 - (iii) by the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;
 - (iv) in such other manner as the contracting parties may mutually agree; or
 - (v) in the absence of agreement by the parties, by a unilateral determination by the City of the costs attributable to the events or situations under such clauses with adjustment of profit or fee as computed by the City, as accounted for in accordance with [reference to cost principles] and subject to the provision of Article 9 (Appeals and Remedies).
- b. A contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provision of Section 3-202 (Cost or Pricing Data).

- (4) Standard Clauses and Their Modification. The Purchasing Agent, after consultation with the City Solicitor, may establish standard contract clauses for use in City contracts. If the Purchasing Agent establishes any standard clauses addressing the subjects set forth in Subsection (1) of this Section, such clauses may be varied provided that any variations are reviewed by the City Solicitor.

3-303 Change Orders

- (1) Required Submissions Relating to Change Orders or Contract Modifications. A contractor shall submit cost or pricing data prior to the pricing of any change order or contract modification, including adjustments to contracts awarded by competitive sealed bidding, whether or not costs or pricing data was required in connection with the initial pricing of the contract.
- (2) Contract Changes for FTA Funded Procurements:
City of Bangor may not use Federal assistance to finance:

- (a) Improper Contract Expansion – A contract has been improperly expanded when it includes significantly larger quantities, or options beyond the recipient's reasonably anticipated needs. A contract has also been improperly expanded when excess capacity has been added primarily to permit assignment of those contract rights to another entity.
- (b) Cardinal Changes – A significant change in contract work that causes a major deviation from the original purpose of the work or the intended method of achievement, or causes a revision of contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract, is a cardinal change or "tag-on". A change within the scope of the contract is not a cardinal change or "tag-on."

3-304 Contract Administration.

- (1) Each department shall ensure that a contractor is performing in accordance with the solicitation under which the contract was awarded, and the terms and conditions of the contract, shall be maintained.
- (2) Contract Administration for FTA Funded Procurements:

- (a) City of Bangor Staff Responsibilities

- Prior to execution of third party contracts, City of Bangor shall designate a Project Manager to serve as City of Bangor principal contact with the contractor and as the primary administrator of the contract. The designated Project Manager for each contract shall have responsibility for directing and overseeing the work performed by the contractor; reviewing and approving deliverables and invoices from the contractor; determining percentage of contract completion for progress payments (if applicable); making recommendations on the exercise of contract options (if applicable); recommending contract changes; preparing justifications for contract changes; performing independent cost estimates and cost or price analyses for contract changes; making recommendations on approval or rejection of subcontractors; assisting with the resolution of contract disputes; making recommendations on contract termination or other contractor disciplinary actions; maintaining complete contract files; and other contract administration duties that may be necessary.

- (b) Period of Performance

- The period of performance generally should not exceed the time necessary to accomplish the purpose of the contract. City of Bangor will also consider competition, pricing, fairness, and public perception. City of Bangor procurement files will document its rationale for determining the performance period designated for each contract. City of Bangor third party contracts (such as property, services, leases, construction, revenue, and so forth) are limited to a maximum period of performance of five (5) years, unless the City justifies the business need or reason for establishing a longer term. City of Bangor may enter into a multi-year contract

to buy rolling stock with an option not exceeding five (5) years to buy additional rolling stock or replacement parts (49 U.S.C. § 5325(e)(1)). City of Bangor may not exercise that option later than five (5) years after the date of its original contract.

(c) Time Extensions

Consistent with the general tone of FTA Circular 4220.1F, contract time extensions shall be considered in light of whether they are permissible changes or impermissible cardinal changes. Once City of Bangor awards a third party contract, an extension of the contract term length that amounts to a cardinal change will require a sole source justification. The Director of Finance has the sole authority to approve and execute contract modifications. The Project Manager for the contract shall review all contract modifications as to whether additional time can be granted. The Project Manager shall prepare a written justification and cost analysis (if applicable) for the contract time extension and shall negotiate the appropriate contract modification with the contractor.

(d) Advance Payments

Advance payments utilizing FTA funds are prohibited unless prior written concurrence is obtained from FTA.

(e) Progress Payments

Progress payments are payments for contract work that has not been completed. City of Bangor may use FTA assistance to support progress payments provided the City obtains adequate security for those payments and has sufficient written documentation to substantiate the work for which payment is requested. Adequate security for progress payments may include taking title or obtaining a letter of credit or taking equivalent measures to protect the recipient's financial interest in the progress payment. Adequate security should reflect the practical realities of different procurement scenarios and factual circumstances. FTA acknowledges the practical reality that taking title to work in progress may not be desirable in some circumstances. The recipient should always consider the costs associated with providing security (for example, the recipient may need to acquire bonds or letters of credit in the commercial marketplace) and the impact of those costs on the contract price, as well as the consequences of incomplete performance. Applicable provisions of Circular 4220.1F requires that any progress payments for construction contracts be made on a percentage of completion method described therein. City of Bangor however, may not make progress payments for other than construction contracts based on this percentage method.

(f) Remedies

City of Bangor shall include provisions that address remedies in its third party contracts. Provisions related to remedies may include provisions for:

a. Liquidated Damages

City of Bangor may use liquidated damages if City of Bangor reasonably expects to suffer damages through delayed contract completion, or if weight requirements are exceeded, and the extent or amount of such

damages are uncertain and would be difficult or impossible to determine. Rate and measurement standards must be calculated to reasonably reflect City of Bangor costs should the standards not be met, and must be specified in the solicitation and contract. The assessment for damages may be established at a specific rate per day for each day beyond the contract's delivery date or performance period. A measurement other than a day or another period of time, however, may be established if that measurement is appropriate, such as weight requirements in a rolling stock purchase. The contract file must include a record of the calculation and rationale for the amount of damages established. Any liquidated damages recovered must be credited to the project account.

b. Violation or Breach

Third party contracts exceeding \$100,000 must include administrative, contractual, or legal remedies for violations or breach of the contract by the third party contractor.

c. Suspension of Work

City of Bangor may include provisions pertaining to suspension of work in its third party contracts.

d. Termination

Termination for cause and termination for convenience provisions must be included in third party contracts exceeding \$10,000.

(g) Contents of Complete Contract Files

The following documents shall comprise the contents of a complete contract file for procurements above the micro-purchase level:

a. Written Record of Procurement History

City of Bangor shall maintain written records detailing the history of the procurement for at least three years after the grant period concludes, including records relating to:

1. Procurement Method

City of Bangor must provide its rationale for the method of procurement it used for each contract, including a sole source justification for any acquisition that does not qualify as competitive.

2. Contract Type

City of Bangor must state the reasons for selecting the contract type it used.

3. Contractor Selection

City of Bangor must state its reasons for contractor selection or rejection, including written justification and evaluation documents;

4. Contractor Responsibility

City of Bangor must provide a written determination of responsibility for the successful contractor;

5. Cost or Price

City of Bangor must evaluate and state its justification for the contract cost or price, including the independent cost estimate and cost or price analysis; and

6. Reasonable Documentation

City of Bangor must retain documentation commensurate with the size and complexity of the procurement, including documents related to solicitation, receipt and evaluation of offers, and contract award, negotiation and execution.

(h) Contract Administration and Close-Out Documents

City of Bangor shall maintain written records detailing the performance and close-out of the contract, including records relating to:

(i) Contractor Performance

City of Bangor must maintain documents related to contractor adherence to budget and schedule, compliance with contract terms and conditions, DBE participation, progress reports, disputes and disciplinary actions.

(j) Contract Deliverables

City of Bangor must maintain copies of all contract deliverables and records relating to approval, rejection and requested modifications of contract deliverables.

(k) Contract Changes

City of Bangor must maintain copies of all contract modifications, including documentation related to the determination of need, written justification and rationale, cost analysis, negotiation and execution.

(l) Contract Payments

City of Bangor must retain documentation of invoices, approval of payments, requests for modifications to invoices, determination of percentage of contract completion for partial payments (if applicable), and ownership of title to partial work products.

(m) Contract Close-Out

City of Bangor must retain documentation related to contractor performance and evaluation, approval of final deliverables and payments, transfer of title to complete work products to City of Bangor and contract audit and final reconciliation.

3-305 Right to Audit Records.

- (1) Audit of Cost or Pricing Data. The City may at reasonable times and places, audit the books and records of any contractor who has submitted cost or pricing data pursuant to

Section 3-202 (Cost or Pricing Data) to the extent that such books, documents, papers, and records are pertinent to such cost or pricing data. Any person who receives a contract, change order, or contract modification for which cost or pricing data is required, shall maintain such books, document, papers, and records that are pertinent to such cost or pricing data for three (3) years from the date of final payment under the contract.

- (2) **Contract Audit.** The City shall be entitled to audit the books and records of a contractor or a subcontractor at any tier under any negotiated contract or subcontract other than a firm fixed price contract to the extent that such books, documents papers, and records are pertinent to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of three (3) years from the date of final payment under the prime contract and by the subcontractor for a period of three (3) years from the date of final payment under the subcontract.

3-306 Reporting of Anticompetitive Practices.

When for any reason collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the State Attorney General and the City Solicitor.

3-307 City Procurement Records.

- (1) **Contract File.** All determinations and other written records pertaining to the solicitation, award, or performance of a contract shall be maintained for the City in a contract file by the Purchasing Agent.
- (2) **Retention of Procurement Records.** All procurement records shall be retained and disposed of by the City in accordance with State record retention guidelines.

NOTE: Records as to awarded contracts should be retained for at least six (6) years following final performance thereunder. Statute of limitations under 14 MRSA §751 et. seq. is 20 years for actions on contracts under seal and maximum ten (10) years for negligence of design professionals.

ARTICLE 4 - SPECIFICATIONS

4-101 Maximum Practicable Competition.

All specifications shall be drafted so as to promote overall economy for the purposes intended and encourage competition in satisfying the City's needs, and shall not be unduly restrictive. The policy enunciated in this Section applies to all specifications including but not limited to, those prepared for the City by architects, engineers, designers, and draftsmen.

4-102 Brand Name or Equal Specification.

- (1) Use. Brand name or equal specifications may be used when the Purchasing Agent determines that:
 - (a) no other design, performance specification or qualified product is available;
 - (b) time does not permit the preparation of another form of purchase description, not including a brand name specification;
 - (c) the nature of the product or the nature of the City's requirements makes use of a brand name or equal specification suitable for the procurement; or
 - (d) use of a brand name or equal specification is in the City's best interests.
- (2) Designation of Several Brand Names. Brand name or equal specifications shall seek to designate three, or as many different brands as are practicable, as "or equal" references and shall further state that substantially equivalent products to those designated will be considered for award.
- (3) Required Characteristics. Unless the Purchasing Agent determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics which are required.
- (4) Nonrestrictive Use of Brand or Equal Specifications. Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

4-103 Brand Name Specification.

- (1) Use. Since use of a brand name specification is restrictive of product competition, it may be used only when the Purchasing Agent determines that only the identified brand name item or items will satisfy the City's needs.
- (2) Competition. The Purchasing Agent shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 3-105 (Sole Source Procurement).

ARTICLE 5 - PROCUREMENT OF CONSTRUCTION, ARCHITECT, ENGINEER AND LAND SURVEYING SERVICES

Part A - Management of Construction Contracting

5-101 Responsibility for Selection of Methods of Construction Contracting Management.

- (1) The Purchasing Agent shall have the discretion to select the appropriate method of construction contracting management for a particular project. In determining which method to use, the Purchasing Agent may consult with the City Engineer and shall consider the City's requirements, its resources, and the potential contractor's capabilities. If a method of construction contracting management other than a single prime contractor is selected, the Purchasing Agent shall include in the contract file a written statement setting forth the reasons for the alternate method of construction contracting management for that project.
- (2) Architectural and Engineering (A&E) Requirements for FTA Funded Procurements:
FTA's enabling legislation at 49 U.S.C. Section 5325(b)(1) requires the use of the qualifications-based procurement procedures contained in the "Brooks Act," 40 U.S.C. § 1101 through 1104, to acquire A&E services.
 - (a) Qualifications-Based Procurement Procedures Required – City of Bangor must use qualifications-based procurement procedures to acquire architectural and engineering (A&E) services as well as certain other services that are directly in support of, directly connected to, directly related to, or lead to construction, alteration, or repair of real property. In addition to A&E services, other services that must be procured by qualifications-based procurement procedures include:
 - Program management;
 - Construction management;
 - Feasibility studies;
 - Preliminary engineering;
 - Design, architectural, engineering;
 - Surveying, mapping; and
 - Other related services.

The nature of the work to be performed and its relationship to construction, not the nature of the prospective contractor, determine whether qualifications-based procurement procedures may be used.

- (b) Qualifications-Based Procurement Procedures Prohibited – Unless FTA determines otherwise in writing, qualifications-based procurement procedures may not be used to acquire other types of services if those services are not directly in support of, directly connected to, directly related to, or do not lead to construction, alteration, or repair of real property. Qualifications-based procurement procedures may not be used for actual construction, alteration or repair to real property.
 - (c) Qualifications-Based Procurement Procedures – The following procedures apply to qualifications-based procurements:
 - (1) Qualifications – Unlike other two-step procurement procedures in which price is an evaluation factor, an offeror's qualifications are evaluated to determine contract award.

- (2) Price – Price is excluded as an evaluation factor.
 - (3) Most Qualified – Negotiations are first conducted with only the most qualified offeror.
 - (4) Next Most Qualified - Only after failing to agree on a fair and reasonable price may negotiations be conducted with the next most qualified offeror. Then, if necessary, negotiations with successive offerors in descending order may be conducted until contract award can be made to the offeror whose price the recipient believes is fair and reasonable.
- (3) FTA Funded Design-Build Procurements:
The City of Bangor must procure design-build services through means of qualifications-based competitive proposal procedures based on the Brooks Act as set forth in 4220.1F, VI, 3. h. when the preponderance of the work to be performed is considered to be for architectural and engineering (A&E) services as defined in 4220.1F, VI, 3. f. Qualifications-based competitive proposal procedures should not be used to procure design-build services when the preponderance of the work to be performed is not of an A&E nature as defined in 4220.1F, VI, 3. f, unless required by State law adopted before August 10, 2005.
- (4) Prevailing Wages Requirements for FTA Funded Procurements (Davis Bacon):
Under 49 U.S.C. Section 5333(a), Davis-Bacon Act prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction projects. City of Bangor will ensure that any third party contracts at any tier exceeding \$2,000 shall include provisions requiring compliance with the Davis-Bacon Act, 40 U.S.C. § 3141 *et seq.*, and implementing DOL regulations, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction" (29 CFR Part 5). The Davis-Bacon Act requires contractors to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. The Davis-Bacon Act also requires contractors to pay wages not less than once a week. City of Bangor will include a copy of the current prevailing wage determination issued by DOL in each contract solicitation and will condition contract award upon the acceptance of that wage determination.
- (5) Anti-Kickback Requirements for FTA Funded Procurements:
For all third party construction and repair contracts exceeding \$100,000, City of Bangor, shall require provisions for compliance with the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. § 874, and implementing DOL regulations, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States," 29 CFR Part 3. The Act prohibits a contractor from inducing, by any means, any employee, to give up any part of his or her compensation to which he or she is otherwise entitled. Section 4104(c) of the Federal Acquisition Streamlining Act of 1994, 40 U.S.C. § 3701(b)(3)(A)(iii), increased the threshold for construction and repair to \$100,000 from \$2,000 as set forth in the Super Circular, so that a federally assisted construction contract must exceed \$100,000 before these "Anti-Kickback" prohibitions apply to that contract.

Part B - Bid Security and Performance Bonds

5-201 Bid Security.

- (1) Requirement for Bid Security. Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated to exceed \$50,000. Bid security shall be a bond provided by a surety company authorized to do business in the State of Maine, certified check, or otherwise supplied in a form satisfactory to the Purchasing Agent. Nothing herein shall prevent the requirement of such bonds on construction contracts under \$50,000 when the circumstances warrant.
- (2) Amount of Bid Security. Bid security shall be an amount equal to at least 5% of the amount of the bid.
- (3) Rejection of Bids for Noncompliance with Bid Security Requirements. When the request for bids requires security, noncompliance requires that the bid be rejected unless it is determined that the bid fails to comply only in a nonsubstantial manner with the security requirements.
- (4) Withdrawal of Bids. If a bidder is permitted to withdraw his/her bid before award as provided in Section 3-101(6) (Competitive Sealed Bidding; Correction or Withdrawal of Bids; Cancellation of Awards), no action shall be made against the bidder or the bid security.

5-202 Contract Performance and Payment Bonds.

- (1) When Required and Amounts. When a construction contract is awarded in excess of \$50,000, the following bonds or security shall be delivered to the City and shall become binding on the parties upon the execution of the contract:
 - (a) a performance bond satisfactory to the City, executed by a surety company authorized to do business in the State of Maine or otherwise secured in a manner satisfactory to the City, in an amount to equal to 100% of the price specified in the contract; and
 - (b) a payment bond satisfactory to the City, executed by a surety company authorized to do business in the State of Maine or otherwise secured in a manner satisfactory to the City, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to 100% of the price specified in the contract.
- (2) Authority to Require Additional Bonds. Nothing in this Section shall be construed to limit the authority of the City to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in Subsection (1) of this Section.
- (3) Suits on Payment Bonds - Right to Institute. Unless otherwise authorized by law, any person who has furnished labor or materials to the contractor or subcontractors for the work provided in the contract, for which a payment bond is furnished under this Section,

and who has not been paid in full within 90 days from the date on which that person performed the last of the labor or supplied the material, shall have the right to sue on the payment bond for any amount unpaid at the time the suit is instituted and to prosecute the action for the amount due that person. However, any person having a contract with a subcontractor of the contractor, but no express or implied contract with the contractor furnishing the payment bond, shall have a right of action upon the payment bond upon giving written notice to the contractor within 90 days from the date on which that person performed the last of the labor or supplied the material. That person shall state in the notice the amount claimed and the name of the party to whom the material was supplied or for whom the labor was performed. The notice shall be served personally or by registered or certified mail, postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or conducts business.

- (4) Suits on Payment Bonds - Where and When Brought. Unless otherwise authorized by law, every suit instituted upon a payment bond shall be brought in a court of competent jurisdiction in Penobscot County.
- (5) City of Bangor Subrogation Rights. The City of Bangor may reserve by contract the right to make payments directly to any supplier or subcontractor who shall not have received timely payment from the contractor for labor or materials provided to a City project.

In the event the City shall make such payments, it shall be deemed subrogated to the rights of the supplier or subcontractor concerned to the extent of the payments made, and may institute suit on any payment bond as provided above, the City's right to institute suit under this paragraph shall be in addition to the City's rights in regard to payment of contract funds to the contractor or to institute suit against the contractor for enforcement of any performance bond.

5-203 Copies of Bond Forms.

Any person may request and obtain from the City a certified copy of a bond upon payment of the cost of reproduction of the bond and postage, if any. A certified copy of a bond shall be prima facie evidence of the contents, execution, and delivery of the original.

5-204 Insurance Requirements

Where the Purchasing Agent has required liability or hazard insurance in accordance with section 3-204, the minimum coverage amount of such insurance shall be \$400,000 for comprehensive general liability coverage and the value of the City property affected for fire, hazard or property damage insurance. A higher coverage limit may be specified. The City shall be named as an additional insured on all such insurance policies, which shall be issued by an insurance company authorized and licensed to do business in the State of Maine.

Part C - Fiscal Responsibility

5-301 Contract Changes and Approval Process

Every contract modification, change order, or contract price adjustment under a construction contract with the City shall be subject to prior approval by the City Manager after receiving a report from the department head or other appropriate City official that the requested change is appropriate and that sufficient funds are available for the change.

5-302 Fiscal Responsibility.

Every contract modification, change order, or contract price adjustment in excess of \$100,000 under a construction contract with the City shall be subject to prior approval by the City Council after receiving a report from the appropriate City official as to the effect of the contract modification, change order, or contract price adjustment on the total project budget or the total contract budget.

ARTICLE 6 - DEBARMENT OR SUSPENSION

6-101 Authority to Debar or Suspend.

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Purchasing Agent, after consulting with the City Solicitor, is authorized to debar a person for cause from consideration for award of contracts. The debarment shall be for a period of not more than three (3) years.

After consultation with the City Solicitor, the Purchasing Agent is authorized to suspend a person from consideration for award of contracts if there is probable cause to believe that the person has engaged in any activity which might lead to debarment. The suspension shall be for a period not to exceed one (1) year. The causes for debarment include:

- (a) conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
- (b) conviction under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honest which currently, seriously, and directly affects responsibility as a City contractor;
- (c) conviction under State or Federal antitrust statutes arising out of the submission of bids or proposals;
- (d) Violation of contract provisions, as set forth below, of a character which is regarded by the Purchasing Agent to be so serious as to justify debarment action:
 - (i) deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - (ii) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to

perform or unsatisfactory performance caused by acts beyond the control of the contract shall not be considered to be a basis for debarment.

- (e) any other cause the Purchasing Agent determines to be so serious and compelling as to affect responsibility as a City contractor including debarment by another governmental entity for any cause listed in this Policy; and
- (f) for violation of the ethical standards as set forth in Ethics in Public Contract, (See Chapter 33, City of Bangor Ordinance).

6-102 Decision to Debar or Suspend.

The Purchasing Agent shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken and inform the debarred or suspended person involved of its rights concerning judicial or administrative review.

6-103 Notice of Decision.

A copy of the decision required by Section 6-102 (Decision to Debar or Suspend) shall be mailed or otherwise furnished immediately to the debarred or suspended person.

6-104 Finality of Decision.

A decision under Section 6-102 (Decision to Debar or Suspend) shall be final and conclusive, unless fraudulent, or the debarred or suspended person within 10 days after receipt of the decision takes an appeal to the Board of Appeals or commences a timely action in court in accordance with applicable law.

6-105 Debarment and Suspension Requirements for FTA Funded Procurements.

Debarment and Suspension:

Debarment and suspension regulations and guidance include the following provisions.

DOT Debarment and Suspension Regulations:

U.S. Department of Transportation (DOT) regulations, "Nonprocurement Suspension and Debarment," 2 CFR Part 1200 apply to each third party contract at any tier of \$25,000 or more, to each third party contract at any tier for a federally required audit (irrespective of the contract amount), and to each third party contract at any tier that must be approved by an FTA official irrespective of the contract amount. See, 2 CFR Part 1200. City of Bangor shall apply DOT's debarment and suspension requirements to itself and each third party contractor at every tier to the extent required by DOT's regulations that incorporate the requirements of Office of Management and Budget (OMB), "Guidelines to Agencies on Government Wide Debarment and Suspension (Nonprocurement)," 2 CFR Part 180.

System for Award Management:

The System for Award Management (SAM) combines federal procurement systems and the Catalog of Federal Domestic Assistance into one new system. SAM includes the functionality from the following systems:

- Central Contractor Registry (CCR)
- Federal Agency Registration (Fedreg)
- Online Representations and Certifications Application
- Excluded Parties List System (EPLS)

At its discretion, City of Bangor may collect a debarment and suspension certification from the prospective third party contractor or include a clause in the third party contract requiring disclosure. Additionally, it shall be the policy of City of Bangor to verify that the prospective third party vendor is not listed as a debarred contractor on the SAM website at SAM.gov. Documentation of SAM searches shall be retained in the permanent history file associated with each procurement.

ARTICLE 7 - COST PRINCIPLES

7-101 Federal Cost Principles for FTA Funded Procurements.

Applicable provisions of 2 CFR Part 200.400 require project costs to conform to applicable Federal cost principles for allowable costs. City of Bangor must follow the cost principles outlined in Title 48 Chapter 1 Subchapter E Part 31. In general, costs must be necessary and reasonable, allocable to the project, authorized or not prohibited by Federal law or regulation, and must comply with Federal cost principles applicable to the recipient.

ARTICLE 8 - SUPPLY MANAGEMENT

(RESERVED)

ARTICLE 9 - APPEALS AND REMEDIES

9-101 Bid Protests.

- (1) Right to Protest. Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the City Council. Protesters are urged to seek resolution of their complaints initially with the Purchasing Agent. A protest with respect to a request for bids or request for proposals/qualifications shall be submitted in writing prior to the opening of bids or the closing date of proposals, unless the aggrieved person did not know and should not have known of the facts giving rise to such protest prior to bid opening or the closing date for proposals. The protest shall be submitted within five (5) calendar days after such aggrieved person knows of the facts giving rise thereto. The decision of the City Council is final.
- (2) Stay of Procurements During Protests. In the event of a timely protest under Subsection (1) of this Section, the Purchasing Agent shall not proceed further with the solicitation or

award of the contract unless the City Council makes a written determination that the award of a contract without delay is necessary to protect substantial interests of the City.

- (3) Entitlement to Costs. In addition to any other relief, when a protest is sustained and the protesting bidder or offeror should have been awarded the contract under the solicitation but is not, then the protesting bidder or offeror shall be entitled to the reasonable costs incurred in connection with the solicitation, including bid preparation costs other than attorney's fees.

- (4) Protest Procedures for FTA Funded Procurements:

(a) Statement of Policy

City of Bangor is responsible for resolving all contractual and administrative issues, including protests of evaluations and contract awards, arising out of its third party procurements using good administrative practices and sound business judgment.

In general, FTA will not substitute its judgment for that of City of Bangor unless the matter is primarily a Federal concern. Nevertheless, FTA can become involved in City of Bangor administrative decisions when a City of Bangor protest decision is appealed to FTA.

City of Bangor shall give timely notification to FTA when it receives a third party procurement protest and will keep FTA informed about the status of any such protest. City of Bangor shall disclose all information about any third party procurement protest to FTA upon request.

City of Bangor shall insert its protest procedure in all solicitation documents for products and services having an estimated value of \$100,000 or greater.

(b) City of Bangor Staff Responsibilities

The following staff responsibilities shall be assigned in all protests:

- Director of Finance – Responsibilities include: ensuring that the City of Bangor Protest Procedure is included in all solicitation documents; and providing information to and assisting Legal Counsel with the resolution of protests.
- Legal Counsel – Responsibilities include: reviewing all procurement protests; and advising and assisting the City of Bangor as needed with the resolution of all procurement protests.

(c) Solicitation Provision

City of Bangor shall insert the following provision in all solicitation documents:

- Pre-Proposal Protests
All protests concerning solicitation specifications, criteria and/or procedures shall be submitted in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the Director of Finance as specified below not later than ten (10) business days prior to the deadline for submission of bids/proposals.

The Director of Finance may, within his or her discretion, postpone the deadline for submission of bids/proposals, but in any case, shall provide a written response to all protests not later than five (5) business days prior to the deadline for submission of bids/proposals. If the deadline for submission of bids/proposals is postponed by the Director of Finance as the result of a protest the postponement will be announced through an addendum to the solicitation.

The decision by the Director of Finance shall be the final agency decision on the matter but shall be subject to judicial review as set forth by FTA below.

- Pre-Award Protests

With respect to protests made after the deadline for submission of bids/proposals but before contract award by «Db_Name», protests shall be limited to those protests alleging a violation of Federal or State law, a challenge to the bids/proposals evaluation and award process, «Db_Name»'s failure to have or follow its protest procedures or its failure to review a complaint or protest. Such protests shall be submitted in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the Director of Finance as specified below not later than five (5) business days after the Recommendation for Contract Award announcement by City of Bangor.

The Director of Finance may, within his or her discretion, postpone the award of the contract, but in any case, shall provide a written response to all protests not later than three (3) business days prior to the date that City of Bangor shall announce the contract award.

The decision by the Director of Finance shall be the final agency decision on the matter but shall be subject to judicial review as set forth or review by FTA as specified below.

(d) Requirements for Protests

All protests must be submitted to City of Bangor in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail), with sufficient documentation, evidence and legal authority to demonstrate that the Protestor is entitled to the relief requested. The protest must be certified as being true and correct to the best knowledge and information of the Protestor, and be signed by the Protestor. The protest must also include a mailing address to which a response should be sent.

Protests received after the deadlines for receipt of protests specified above are subject to denial without any requirement for review or action by City of Bangor.

All protests must be directed in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the Director of Finance at the address shown in the solicitation documents.

(e) Protest Response

The Director of Finance shall issue written responses to all protests received by the required protest response dates. All protest responses shall be transmitted by first-class U.S. Postal Service to the address indicated in the protest letter.

For convenience, City of Bangor will also send a copy of the response to a protest to the Protester by facsimile and/or electronic mail if a facsimile number and/or electronic mail address are indicated in the protest letter. The protest response transmitted by U.S. Postal Service shall be the official City of Bangor response to the protest and City of Bangor will not be responsible for the failure of the Protester to receive the protest response by either facsimile or electronic mail.

(f) Review of Protests by FTA

All protests involving contracts financed with Federal assistance shall be disclosed to FTA. Protesters shall exhaust all administrative remedies with City of Bangor prior to pursuing protests with FTA. FTA limits its reviews of protests to: a grantee's failure to have or follow its protest procedures; a grantee's failure to review a complaint or protest when presented an opportunity to do so; or violations of Federal law or regulation. Appeals to FTA must be received within five (5) working days of the date the Protester has received actual or constructive notice of City of Bangor final decision or within five (5) working days of the date the Protester has identified other grounds for appeal to FTA.

ARTICLE 10 - COOPERATIVE PURCHASING

10-101 Authority to Join Groups.

- (1) The Purchasing Agent shall have the authority to join cooperative purchasing groups or other units of government in order to purchase goods or services when such action is deemed in the best interest of the City. Authorization and award of purchases made under cooperative purchasing arrangements shall be in accordance with the award requirements cited in Article 3, Source Selection and Contract Formation.
- (2) Piggybacking requirements for FTA funded procurements:
Assignment of Contract Rights ("Piggybacking") – If a recipient of FTA assistance finds that it has inadvertently acquired contract rights in excess of its needs, it may assign those contract rights to City of Bangor if the original contract contains an assignability provision that permits the assignment of all or a portion of the specified deliverables under the terms originally advertised, competed, evaluated, and awarded, or contains other appropriate assignment provisions. City of Bangor may use contractual rights through assignment from another recipient of FTA assistance after first determining the contract price remains fair and reasonable, and the contract provisions are adequate for compliance with all Federal requirements. City of Bangor need not perform a second price analysis if a price analysis was performed for the original contract; however, City of Bangor must determine whether the contract price or prices originally established are still fair and reasonable before using those rights. City of Bangor shall be responsible for ensuring the

contractor's compliance with FTA's Buy America requirements and execution of all the required pre-award and post-delivery Buy America review certifications. Before proceeding with the assignment, however, City of Bangor shall review the original contract to ensure that the quantities the assigning recipient acquired, coupled with the quantities that City of Bangor would acquire, do not exceed the amounts available under the assigning recipient's contract and that the required FTA clauses are included.

ARTICLE 11 - ASSISTANCE TO DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

- (1) **Disadvantaged Business Enterprises (DBE) FTA Requirements:**
City of Bangor must comply with applicable Federal laws and regulations that provide competitive opportunities for a contractor that qualifies as a disadvantaged business enterprise (DBE), minority owned firm, women's business enterprise, or small business.

FTA desires to make available at least 10 percent of its funding under that Act for contracts with small business concerns owned and controlled by socially and economically disadvantaged people. City of Bangor assists FTA in meeting this national goal. To receive FTA assistance, City of Bangor must comply with applicable requirements of DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 CFR Part 26.

Small and Minority Firms and Women's Business Enterprises

FTA Circular 4220.1F, Chapter IV, Section 2a(6)(b) requires City of Bangor and its subrecipients (if any) to take steps to ensure that it uses small and minority firms and women's business enterprises (irrespective of whether they qualify as DBEs) to the fullest extent practicable.

- (a) Notice – City of Bangor shall make information available to potentially qualified firms about procurement opportunities. City of Bangor shall include these contractors on solicitation lists and request their participation when they are potential sources.
- (b) Contract Size – To foster greater participation of small and minority firms and women's business enterprises, City of Bangor may divide total requirements into smaller tasks or quantities, when economically feasible.
- (c) Delivery Schedule – City of Bangor may specify delivery schedules that encourage their participation.
- (d) Small Business Administration and the Department of Commerce Minority Business Development Agency – City of Bangor may use the services and assistance of the Small Business Administration and the Department of Commerce's Minority Business Development Agency.
- (e) Subcontracting Opportunities – City of Bangor may require its prime third party contractors to include the preceding provisions in FTA assisted subcontracts.

- (f) Prompt Payment – City of Bangor requires prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment you make to the prime contractor.

City of Bangor ensures prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed.

ARTICLE 12 - ETHICS IN PUBLIC CONTRACTING (See also Chapter 33, City of Bangor Ordinance)

Conflicts of Interest for FTA Funded Procurements:

Organizational conflicts of interest may result in bias and potentially provide an unfair competitive advantage to a potential offer or. An organizational conflict of interest occurs due to the type of work to be performed under a third party contract, or because of other activities or relationships such as:

- A contractor is unable, or potentially unable, to render impartial assistance or advice to the City of Bangor.
- A contractor's objectivity in performing contract work is or might otherwise be impaired; or
- A contractor has an unfair competitive advantage.

Bias arises when a contractor is placed in a situation where there may be an incentive to distort advice or decisions. Whenever a contract is awarded that involves the rendering of advice, the question must always be asked as to whether the potential for a conflict of interest exists for the contractor rendering the advice. City of Bangor will utilize a "Conflict of Interest Disclosure Statement," in its solicitation when contracting for services of this nature.

ARTICLE 13 – COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

13-101 General Provisions

- (1) When procuring goods or services using Community Development Block Grant funding, the City and its subrecipients, must follow federal procurement rules when purchasing services, supplies, materials, or equipment.
- (2) The City must adhere to federal procurement requirements found in 24 CFR Part 85 and as amended. Subrecipients must adhere to federal procurement requirements found in 24 CFR Part 215.44, as implemented through 24 CFR Part 84 and as amended.
- (3) Subrecipients are those entities and individuals receiving loans or grants to fulfill a CDBG national objective using CDBG funding and/or matching funds.

Subrecipients include, but are not limited to, businesses, nonprofit organizations, housing developers and single family home owners. Sub recipients are not required to receive the City's authorization to award contracts using CDBG funding so long as these procurement policies are adhered to and documented.

- (4) There are four categories of procurement pertaining to CDBG funding:
- (a) Small purchase procedures,
 - (b) Sealed bids,
 - (c) Competitive proposals and
 - (d) Non-competitive proposals.

13-102 Small Purchase Procedures

This category may be used for goods and services totaling no more than \$100,000. The Director of Community & Economic Development, or his/her designee, has authority to award contracts within this category.

- (1) .
- (2) Non Housing Rehabilitation - Under the small purchases method, a request for quotes may be sent to a reasonable number of potential vendors with a detailed description of the goods or services needed. Once three or more competitive written quotations are received from qualified sources, a contract may be awarded to the lowest responsive and responsible source.
- (3) Housing Rehabilitation – Under the small purchases method, a request for quotes shall be sent to a reasonable number of pre-qualified vendors with a detailed description of the goods or services needed. Once three or more competitive written quotations are received from qualified sources, a contract may be awarded to the lowest responsive and responsible source.

13-103 Sealed Bids

- (1) This category may be used for construction contracts and goods totaling over \$100,000. The City Council must approve all contracts within this category.
- (2) Competitive and publicly solicited sealed bids are required for this category. A firm-fixed-price lump sum or unit price contract shall be awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price. A minimum of two bidders is required.
- (3) The invitation for bids must be publicly advertised in a newspaper of general circulation and a minimum of two bids must be received in order to award the contract. All bids must be opened publicly at the time and place stated in the invitation for bids. The public is allowed at that time to review the bids. All bids may be rejected when sound documented reasons exist.

13-104 Competitive Proposals

- (1) Competitive proposals are used to purchase professional services where the total cost will exceed \$100,000. The Director of Community & Economic Development, or his/her designee, has authority to award contracts within this category.
- (2) Bids may be solicited under this category using two methods:
 - (a) A request for proposals
 - (b) A request for qualifications for architect and engineering services.
- (3) The invitation for bids must be publicly advertised in a newspaper of general circulation and a minimum of two bids/qualifications must be received in order to award the contract.

13-105 Non-Competitive Proposals

- (1) Non-competitive procurement may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and one of the following circumstances applies:
 - (a) Where the item is available only from a single source;
 - (b) Where a public emergency or urgent situation is such that the urgency will not permit a delay beyond the time needed to employ one or the other procurement methods;
 - (c) Where after solicitation of a number of sources, competition is determined inadequate.

Any contract in excess of \$100,000 must be awarded by the City Council. Contracts under \$100,000 may be awarded by the Director of Community & Economic Development, or his/her designee.

13-106 Ineligible Beneficiaries

- (1) No member of the Bangor City Council, nor any other public official, officer, employee or agent of the City, shall have any personal or pecuniary interest, direct or indirect, in this agreement or the proceeds thereof.
- (2) No member or delegate to the Congress of the United States, nor any Resident Commissioner, shall be permitted any share or part of the proceeds of this Agreement or any benefit that may arise herefrom.

Article 14 – BUY AMERICA REQUIREMENTS

14-101 Buy America Requirements for FTA Funded Procurements.

- (1) Preference for U.S. Property--Buy America

FTA's "Buy America" regulations apply to procurements in excess of \$100,000 that involve the purchase of iron, steel, manufactured goods, or rolling stock to be delivered to City of Bangor under the third party contract for incorporation into the FTA project.

- (2) Any construction contract exceeding \$100,000 entered into by City of Bangor with FTA assistance shall include provisions that require the third party contractor to provide property produced or manufactured in the United States for use in the construction project that the recipient acquires, unless FTA has granted a waiver authorized by those regulations. FTA cautions that its Buy America regulations are complex and different from the Federal "Buy American Act" regulations in FAR Subparts 25.1 and 25.2.
- (3) Property that the contractor acquires to perform its construction activities for the recipient, such as tools, machinery, and other equipment or facilities, is not covered by FTA's Buy America requirements unless the recipient intends to take possession of that property upon completion of the project. Thus, if a third party contractor is acquiring property for its general inventory of equipment or facilities to conduct its overall business affairs, City of Bangor may enter the cost of that acquisition into its calculations of overhead amounts applicable to the FTA assisted project irrespective of whether that property would comply with FTA's Buy America regulations.

COUNCIL ACTION

Item No. 16-359**Date:** September 26, 2016**Item/Subject:** **ORDER, Authorizing a Development Agreement for the Rehabilitation of 130 13th Street with Patricia and Larry Dearborn - Map-Lot (012-052)****Responsible Department:** Community and Economic Development

Commentary: This order will authorize a development agreement with Patricia and Larry Dearborn for property located at 130 13th Street. In November of 2015 the City entered into a development agreement for the rehabilitation of the single family property located at 130 13th Street with JD Contracting. JD Contracting sold the property to Patricia and Larry Dearborn, prior to completing the terms of the development agreement. The Dearborn's wish to enter a similar agreement with the City to perform the needed rehabilitation work and have completed removal of damaged features. This agreement differs from the first in that it requires periodic progress inspections by the Housing Rehabilitation Coordinator and has a 9 month completion window.

This item was reviewed and recommended for approval by the Business & Economic Development Committee at its September 20, 2016 meeting.

Tanya Emery

Department Head

Manager's Comments:


City Manager

Associated Information:

Budget Approval:


Finance Director

Legal Approval:


City Solicitor

Introduced for

☒ **Passage**
☐ **First Reading**
☐ **Referral**

Page ____ of ____



Assigned to Councilor Graham

CITY OF BANGOR

(TITLE.) **ORDER,** Authorizing a Development Agreement for the Rehabilitation of
130 13th Street (012/052)

WHEREAS, A development agreement for the rehabilitation of the single family home located at 130 13th Street was entered into with JD Contracting; and

WHEREAS, JD Contracting was not keeping up with the timeline established in the development agreement; and

WHEREAS, JD Contracting signed a deed for the sale of the property to Patricia and Larry Dearborn; and

WHEREAS, the Business and Economic Development Committee of the City of Bangor approved executing a new agreement for the rehabilitation of the property with the Dearborns:

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BANGOR, THAT

The City Manager is hereby authorized to sign a development agreement for the rehabilitation of the single family property located at 130 13th Street with Patricia and Larry Dearborn.

COUNCIL ACTION

Item No. 16-360

Date: September 26, 2016

Item/Subject: Order, Authorizing the Adoption of the 2016 Penobscot County Hazard Mitigation Plan.

Responsible Department: Fire

Commentary: This Order will authorize adoption of the recently updated 2016 Penobscot County Hazard Mitigation Plan. This plan is updated to meet Federal Emergency Management Agency (FEMA) standards for disaster reimbursement. Bangor officials signed the original document in 2005 and an update in 2010. All communities are required to endorse updates to remain eligible for disaster funds.

This item was reviewed and recommended for approval by the Government Operations Committee on September 19, 2016.

Department Head

Manager's Comments:

[Signature]
City Manager

Associated Information: Order

Budget Approval:

Finance Director

Legal Approval:

[Signature]
City Solicitor

Introduced for

- ☒ **Passage**
- ☐ **First Reading**
- ☐ **Referral**



Assigned to Councilor Perry

CITY OF BANGOR

(TITLE.) Order, Authorizing the Adoption of the 2016 Penobscot County Hazard Mitigation Plan.

By the City Council of the City of Bangor:

ORDERED,

THAT, Adoption of the 2016 Penobscot County Hazard Mitigation Plan is hereby authorized and approved. This plan is maintained to meet Federal Emergency Management Agency (FEMA) standards for disaster reimbursements. The 2016 plan is an update of the 2010 plan and makes Bangor eligible for disaster funds if Penobscot County suffers a natural or man-made disaster that meets reimbursement thresholds.

COUNCIL ACTION

Item No. 16-361**Date: 9-26-16****Item/Subject: ORDER, Authorizing the Execution of an Agreement with Eastern Sno Cross – for use of the Bass Park Infield, Track, and Grandstand****Responsible Department: Parks and Recreation**

Commentary: This past January, East Coast Sno Cross, LLC entered into an agreement with the City to host a snowmobile racing event at Bass Park. This event is part of a tour operated by East Coast Sno Cross. East Coast Sno Cross wishes to use the infield, a portion of the track and the grandstand at Bass Park for 2017. The event will be on January 28th and 29th, 2017 from 9:00 a.m. to 5:00 p.m. each day. The premises will be used from January 11, 2017 through February 1, 2017 for set up, take down and the event itself. The City leases the premises to Hollywood Casino and they have participated in the discussions with East Coast Sno Cross and are in agreement with allowing the event.

If approved, the agreement shall include the following terms: East Coast Sno Cross will pay the City \$1.25 for every ticket sold to the event; East Coast Sno Cross will provide insurance with the City of Bangor and Hollywood Casino named as additional insured; East Coast Sno Cross will indemnify and hold harmless the City of Bangor and Hollywood Casino; East Coast Sno Cross will pay the City any direct costs for fire, police and water usage; East Coast Sno Cross will provide a security deposit. This item was reviewed and recommended for approval by the Government Operations Committee on September 19, 2017.

Tracy Willette
Department Head

Manager's Comments:

City Manager

Associated Information: Order

Budget Approval:

Finance Director

Legal Approval:

City Solicitor

Introduced for

☒ **Passage**
☐ **First Reading**
☐ **Referral**

Page __ of __



Assigned to Councilor Graham

CITY OF BANGOR

(TITLE.) Order, Authorizing the Execution of an Agreement with East Coast Sno Cross – for use of the Bass Park Infield, Track, and Grandstand

WHEREAS, the East Coast Sno Cross, LLC wishes to use the infield, a portion of the track, and the grandstand at Bass Park for a Snocross event in January 2017 and

WHEREAS, the City has a lease with GLP Capital, L.P. (Hollywood Casino) for their use of the track, infield and grandstand; and

WHEREAS, the lease provides that the City may use the grandstand and infield so long as it does not interfere with GLP Capital, L.P. use of the premises; and

WHEREAS, GLP Capital, L.P. is in agreement with East Coast Sno Cross, LLC's request to use the property for a Snocross event.

NOW, THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BANGOR THAT

That Catherine M. Conlow, City Manager, is hereby authorized to execute an agreement with East Coast Sno Cross, LLC for the use of the infield, a portion of the track, and the grandstand at Bass Park for a Snocross event. The agreement shall include the following terms: the Snocross event shall be on January 28 and 29, 2017 from 9:00 a.m. to 5:00 p.m. each day; those putting on the event shall have access to the infield, track and grandstand from January 11 – February 1, 2017 in order to set up for and clean up after the event; East Coast Sno Cross will pay the City \$1.25 for every ticket sold to the event; East Coast Sno Cross, LLC will provide insurance with the City of Bangor and GLP Capital, L.P. named as additional insured; East Coast Sno Cross will indemnify and hold harmless the City of Bangor and GLP Capital, L.P.; East Coast Sno Cross, LLC will pay the City any direct costs for fire, police and water usage; East Coast Sno Cross will provide a security deposit; and such other terms as appropriate. Said agreement shall be in a final form as approved by the City Solicitor.

COUNCIL ACTION

Item No. 16-362**Date: September 26, 2016**

Item/Subject: **ORDER,** Authorizing the City Manager to Apply for a two year Grant in the amount of \$60,000 from the Maine Department of Health and Human Services (DHHS), Centers for Disease Control, Lead Poisoning Prevention Fund

Responsible Department: Public Health & Community Services

Commentary: This order authorizes the City Manager to apply for a two-year grant in the amount of \$60,000 from the Maine DHHS to advance meaningful progress toward reducing the burden of childhood lead poisoning in Bangor. If approved, this grant will support community-based activities that enable parents and property owners to identify and address lead hazards and risks before children are poisoned. Specifically, this grant will focus on: 1) owners of rental units built before 1950 in Bangor; and, 2) households with expectant parents and parents with children less than six (6) years old who live in rental units or owner-occupied homes built before 1950. Bangor is one of the five high risk areas in Maine which also includes the municipalities of: Augusta, Biddeford, Lewiston/Auburn and Portland.

Revenue for the Lead Poison Prevention Fund is obtained from a twenty-five cent (\$0.25) per gallon fee imposed on manufacturers or wholesalers of paint sold in Maine. The LPPF is administered by the DHHS Childhood Lead Poisoning Prevention Unit.

DHHS has been providing contracts to Bangor to conduct lead poisoning education and outreach activities since 2009. Over that time period, DHHS has documented declines in the percentage of children under age six (6) who have been newly identified with lead poisoning in all high risk areas for the years 2010-2014 as compared to 2003-2007, the five (5) year time period prior to the initiation of lead poisoning prevention activities.

The term of the initial grant would be January 1, 2017 to December 31, 2018. Renewals for two subsequent two year terms are possible based on performance. This was reviewed and recommended for approval at the September 19, 2016 Government Operations Committee meeting.

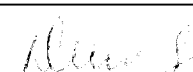
Department Head



Manager's Comments:

City Manager

Associated Information: Order



Budget:

Finance Director

Legal Approval:

City Solicitor

Introduced for

- ☒ **Passage**
☐ **First Reading**
☐ **Referral**



Assigned to Councilor Nichols

CITY OF BANGOR

(TITLE.) ORDER, Authorizing the City Manager to Apply for a two year Grant in the amount of \$60,000 from the Maine Department of Health and Human Services (DHHS), Centers for Disease Control, Lead Poisoning Prevention Fund

By the City Council of the City of Bangor:

ORDERED, THAT the City Manager is hereby authorized to apply for \$60,000.00 from the Maine Centers for Disease Control's Lead Poisoning Prevention Fund to continue lead poisoning prevention activities in Bangor for the two year period January 1, 2017 to December 31, 2018.

The seal of the City of Bangor is a circular emblem with an ornate, gold-colored border. Inside the border, the words "CITY OF BANGOR" are written in a semi-circle at the top, and "INCORPORATED, FEB. 12, 1843" is written in a semi-circle at the bottom. The central image depicts a landscape with a large evergreen tree in the foreground, a body of water with a bridge and an anchor, and a rising sun with rays in the background.

REFERRALS TO COMMITTEES & FIRST READINGS

COUNCIL ACTION

Item No. 16-363**Date: September 20, 2016**

Item/Subject **ORDINANCE**, Amending Land Development Code – Zone Change – At 647 Main Street (Tax Map 27-Lot 001) from an Industry and Service District to Government & Institutional Service District.

Responsible Department: Planning Division

Commentary:

The applicant, City of Bangor, is requesting a zone change for a portion of the property located at 647 Maine Street, immediately adjacent to Parks and Recreation Department (Tax Map 27 Lot 001). The request is to rezone from an Industry and Service District to Government & Institutional Service District which is consistent with existing zoning for Parks and Recreation and will allow them to develop programming and greenspace which is consistent with their mission. This item was reviewed at recommended for approval at the September 19, 2016 Government Operations meeting.

Dept. Head

Manager's Comments:

For Referral to Planning Board Meeting of

City Manager

Associated Information:

Budget Approval:

Finance Director

Legal Approval:

City Solicitor

Introduced for

 Passage

 X First Reading

 X Referral to Planning Board Meeting of October 4, 2016, 7:00 p.m.

Page 1 of 1

SEPTEMBER 26, 2016

Assigned to Councilor Plourde



CITY OF BANGOR

(TITLE.) Ordinance, Amending Land Development Code-Zone Change-647 Main Street (Tax Map 027-Lot001) from Industry and Service District to Government & Institutional Service District.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANGOR, THAT:

THAT the zone boundary lines as established by the Zoning Map of the City of Bangor dated October 28, 1991, as amended, be hereby further amended as follows:

By changing a parcel of land located at 647 Main Street (Tax Map 27-Lot 001) from an Industry and Service District to a Government and Institutional Service District. Said parcel of land containing approximately 2.66 acres of land and being more particularly indicated on the map attached hereto and made part hereof.

COUNCIL ACTION

Item No. 16-364**Date:** September 26, 2016**Item/Subject:** **ORDINANCE, Amending Chapter 165, Land Development Code, of the Code of the City of Bangor, By Allowing Information Processing Centers in Commercial Zones****Responsible Department:** Planning

Commentary: This ordinance will amend the Land Development Code of the City of Bangor to include information processing centers in the Shopping and Personal Service District. As large retail spaces are vacated, there is interest in other uses besides traditional retail that are compatible with the district. As the General Commercial and Service District also includes all allowed uses in the Shopping and Personal Service District, these facilities would now be allowed in these two additional zones. They are currently a permitted use in the Industry and Service and Technology and Service Districts. As this sort of use often requires a greater number of parking spaces than a typical office, the ordinance change would also add a parking requirement specific to this use.

This item was reviewed and recommended for approval by the Business & Economic Development Committee at its September 20, 2016 meeting.

David Gould

Department Head

Manager's Comments:


City Manager

Associated Information:

Budget Approval:

Finance Director

Legal Approval:


City Solicitor

Introduced for☒ **Passage**☐ **First Reading**☒ **Referral** to Planning Board on October 4, 2016**Page** ____ **of** ____

SEPTEMBER 26, 2016

Assigned to Councilor Baldacci



CITY OF BANGOR

ORDINANCE, Amending Chapter 165, Land Development Code, of the Code of the City of Bangor, By
Allowing Information Processing Centers in Commercial Zones

WHEREAS, the shifting retail landscape in America has made the reuse of big box stores increasingly challenging; and

WHEREAS, information processing and communication facilities are potential reuses of a box store that would not conflict with other uses in the Shopping and Personal Service and General Commercial and Service Districts;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANGOR AS FOLLOWS, THAT

Chapter 165 of the Code of the City of Bangor be amended as follows:

§ 165-13. Definitions.

...

INFORMATION PROCESSING AND COMMUNICATIONS FACILITIES

A call center, telemarketing facility, data center, or similar use providing for processing of telephone calls, computer data, or other information.

...

§ 165-72. Required number of spaces.

A minimum number of off-street parking spaces shall be provided and maintained by the owner of every building or property hereafter erected, altered or changed in use, in accordance with the following requirements:

...

L. Retail or service business:

SEPTEMBER 26, 2016

- (1) Retail stores limited to furniture and large appliance sales: one space for each 300 square feet of gross floor area for the first 2,000 square feet and one space for each 600 square feet in excess of 2,000 square feet.
- (2) Information processing and communications: one space per employee; if shifts are used, one space per employee working during the shift with the most employees.
- (3) All other retail and service businesses: one space for each 300 square feet of gross floor area.

...

§ 165-101. Shopping and Personal Service District (S&PS).

...

C. Permitted uses. The following uses are permitted in this district:

...

(14) Information processing and communications facilities.

(15) Accessory uses on the same lot and customarily incidental to and subordinate to the above uses and any use approved under Subsection D below.

...

§ 165-103. Industry and Service District (I&S).

...

C. Permitted uses. The following uses are permitted in this district:

...

(4) Information processing and communications facilities.

...

§ 165-103.1. Technology and Service District (T&S).

...

C. Permitted uses. The following uses are permitted in this district:

...

(5) Information processing and telemarketing communications facilities.

...

Additions are underlined, deletions ~~struck through~~.

COUNCIL ACTION

Item No. 16-365**Date: September 26, 2016****Item/Subject: Resolve, Appropriating \$225,000 from School Capital Reserve to Fund Roof Repairs****Responsible Department: Finance**

Commentary: This resolve would appropriate \$225,000 to fund roof repairs at the Abraham Lincoln School, Fruit Street School and the James F. Doughty School. During the FY 2016 budget deliberations, the Bangor School Committee and the Bangor City Council approved the establishment of a \$356,039 capital reserve fund for school repairs. Monies to fund this fund came from additional General Purpose Aid for Education that was passed after the Bangor School Budget was approved. The additional funds were first used to reduce the local tax burden to a zero increase and the remaining \$356,039 was deposited into a School Capital Reserve Fund. Any funds that remain unspent at the conclusion of the roof work will be returned to the School Capital Reserve Fund.

This item was reviewed and recommended for approval the Finance Committee meeting of September 19, 2016.

Department Head

Manager's Comments:

City Manager

Associated Information:**Budget Approval:**

Finance Director

Legal Approval:

City Solicitor

Introduced for

☐ Passage
☒ First Reading
☐ Referral

Page __ of __



Assigned to Councilor Durgin

CITY OF BANGOR

(TITLE.) Resolve, Appropriating \$225,000 from the School Capital Reserve to Fund Roof Repairs

BY THE CITY COUNCIL OF THE CITY OF BANGOR:

BE IT RESOLVED, that \$225,000 in School Capital Reserve Funds are hereby appropriated for the purpose of funding roof repairs to school facilities.

COUNCIL ACTION

Item No. 16-366**Date: September 26, 2016**

Item/Subject: Resolve, Accepting and Appropriating Grant Funds from the U.S. Department of Housing and Urban Development - Shelter Plus Care Renewal for a one year period beginning September 1, 2016

Responsible Department: Health & Community Services

Commentary: This Resolve will accept and appropriate \$422,158 in Shelter Plus Care funds to provide housing and support for eligible recipients for a period of one year. The City receives ongoing renewal funding to continue several homeless programs under the U.S. Department of Housing and Urban Development's Homeless Continuum of Care. The program is used to provide subsidized rents for up to 65 qualified homeless individuals in the Bangor Region with a primary diagnosis of mental illness, chronic substance abuse or HIV related illness who is receiving support services. Of the 65 clients currently served, 55 have housing in Bangor, 1 in Orono, and 9 in Brewer. The grant period is September 1, 2016 to August 31, 2017.

This was reviewed and recommended for approval at the September 19, 2016 Government Operations Committee meeting.

Department Head

Manager's Comments:

City Manager

Associated Information: Resolve

Budget Approval:

Finance Director

Legal Approval:

City Solicitor

Introduced for

☐ Passage
☒ First Reading
☐ Referral

Page 1_ of 1

SEPTEMBER 26, 2016



Assigned to Councilor Nichols

CITY OF BANGOR

(TITLE.) Resolve, Accepting and Appropriating Grant Funds from the U.S. Department of Housing and Urban Development – Shelter Plus Care Renewal for the one year period beginning September 1, 2016

BY THE CITY COUNCIL OF THE CITY OF BANGOR:

BE IT RESOLVED, that Shelter Plus Care program grant funds in the amount of \$422,158 from the U.S. Department of Housing and Urban Development are hereby accepted and appropriated for the purpose of supporting 51 housing units for the grant period September 1, 2016 to August 31, 2017

COUNCIL ACTION

Item No. 16-367**Date: September 26, 2016**

Item/Subject: Resolve, Accepting and Appropriating a Grant in the amount of \$125,000 from the Substance Abuse and Mental Health Services Administration (SAMHSA) to Implement Drug Free Communities Program.

Responsible Department: Public Health & Community Services

Commentary: This resolve will accept and appropriate a grant in the amount of \$125,000 from SAMHSA to continue to implement the Drug Free Communities program in Brewer, Hermon and Hampden. This is the fifth year of a five-year grant to address substance abuse prevention in three municipalities in the Penquis Region Public Health District: (Brewer, Hampden, and Hermon). The term of the fifth year is September 30, 2016 to September 29, 2017.

This was reviewed and recommended for approval at the September 19, 2016 Government Operations Committee meeting

Department Head

Manager's Comments:

Robert M. Case
City Manager

Associated Information: Resolve

Budget Approval:

Robert M. Case
Finance Director

Legal Approval:

Robert M. Case
City Solicitor

Introduced for

☐ Passage
☒ First Reading
☐ Referral



Assigned to Councilor Sprague

CITY OF BANGOR

(TITLE.) Resolve, Accepting and Appropriating a Grant in the amount of \$125,000 from the Substance Abuse and Mental Health Services Administration (SAMHSA) to Implement Drug Free Communities Program.

By the City Council of the City of Bangor:

RESOLVED, THAT the City Manager is hereby authorized to accept and appropriate \$125,000 from the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration to implement the Drug Free Communities program in the Penquis Region Public Health District municipalities of: Brewer, Hampden, and Hermon. The grant period is September 30, 2016 to September 29, 2017.



UNFINISHED BUSINESS

COUNCIL ACTION

Item No. 16-341

Date: **September 12, 2016**

Item/Subject: **ORDINANCE**, Amending Chapter 260, Signs, of the Code of the City of Bangor, By Allowing for Banners on Municipal Buildings Advertising the Downtown and City Amenities

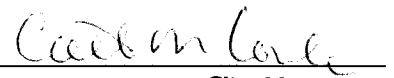
Responsible Department:

Commentary: This ordinance will amend Chapter 260, Signs, of the Code of the City of Bangor to allow for banners on the parking garage and other City-owned buildings. In an effort to improve the look and functionality of the parking garage, the City wishes to erect a series of artistic and informative banners, designed by local artists. If approved, the proposed ordinance change allows for such banners or signs to be erected on City owned buildings upon approval of the City Council.

This item was reviewed and recommended for approval at the Business and Economic Development Committee Meeting on September 6, 2016.

Department Head

Manager's Comments:


City Manager

Associated Information:

Budget Approval:

Finance Director

Legal Approval:


City Solicitor

Introduced for

- ☐ Passage
- ☒ First Reading
- ☒ Referral to Planning Board?



Assigned to Councilor Graham

CITY OF BANGOR

ORDINANCE, Amending Chapter 260, Signs, of the Code of the City of Bangor, By Allowing for Banners on Municipal Buildings Advertising the Downtown and City Amenities

WHEREAS, the City of Bangor wishes to improve the look and function of certain City owned buildings by erecting banners or signs on those buildings; **THEREFORE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANGOR AS FOLLOWS, THAT

Chapter 260 of the Code of the City of Bangor be amended as follows:

§ 260-5. Signs exempt from permit.

Permits are not required for the following signs:

...

- 1. Signs on buildings owned and used by the City of Bangor advertising the downtown or City amenities.**

...

§ 260-6. General standards and limitations.

...

- 1. City banners. Notwithstanding the restrictions found in this chapter, and upon the approval of the City Council, a building owned and used by the City of Bangor may display signs advertising the downtown and City amenities.**

...

§ 260-13. Signs allowed outside the right-of-way without a permit.

The following off-premises signs may be erected and maintained outside the public right-of-way without a permit from the Code Enforcement Officer:

...

- G. City banners. Notwithstanding the restrictions found in this chapter, and upon the approval of the City Council, a building owned and used by the City of Bangor may display signs advertising the downtown and City amenities.

Additions are underlined, deletions ~~struck through~~.

COUNCIL ACTION

Item No. 16-342**Date: September 12, 2016**

Item/Subject Amending Land Development Code – Contract Zone Change – 900 State Street (Tax Map R 71, Parcel 22) from a Low Density Residential District to a Contract Government & Institutional Service District.

Responsible Department: Planning Division

Commentary: The applicant, Julie Sites is requesting a contract zone change for a 6.2 acre parcel of land located at 900 State Street (Tax Map R71, 22), from Low Density Residential District to a Contract Government and Institutional Service District.

The proposed contract conditions will allow the existing large single family home, known as the William Peters House to be used as a nonprofit wellness center. The William Peters House, built in 1911, was designed by architect Milton Stratton in the Neo Rationalist style. In addition, the property includes gardens designed by Olmsted Brothers, Landscape Architects. Both elements give it some historical significance in the City of Bangor.

If approved, the proposed conditions for the contract zone will require the structure to be designated under the Historic Preservation Ordinance. Any new structures will be limited to 35 feet in height, 10,000 square feet in floor area and not exceed an Impervious Surface Ratio of 40%.

/s/ Tanya L. Emery
Dept. Head

Manager's Comments:

For Referral to Planning Board Meeting of September 20, 2016 at 7:00 p.m.



City Manager

Associated Information:

Budget Approval:

Finance Director

Legal Approval:


City Solicitor

Introduced for

☐ Passage

☒ First Reading

☒ Referral to Planning Board Meeting of September 20, 2016, 7:00 p.m.

Page 1 of 1



Assigned to Councilor Nealley

CITY OF BANGOR

(TITLE.) Ordinance, Amending Land Development Code – Contract Zone Change – 900 State Street (Tax Map R71-022) from a Low Density Residential District to a Contract Government and Institutional Service District.

Be it ordained by the City Council of the City of Bangor, as follows:

THAT the zoning boundary lines as established by the Zoning Map of the City of Bangor dated October 28, 1991, as amended, be hereby further amended as follows:

By changing a parcel of land located at 900 State Street (Tax Map No. R71, Parcel No. 022) from an Low Density Residential District to a Contract Government and Insitutional Service District. Said parcel of land containing approximately 6.22 acres and being more particularly indicated on the map attached hereto and made a part hereof.

PROVIDED, HOWEVER THAT, in addition to the mandatory conditions imposed by Chapter 165-7 of the Ordinances of the City of Bangor, said change of zone is granted subject to the following conditions:

1. Limited to the following Permitted Uses:

- a. Facilities operated by a private nonprofit organization such as a holistic wellness center which shall be primarily located in the former Dr. William Peters House and designated as a Historic Landmark under the Bangor Historic Preservation Ordinance.

2. New structures or additions shall not exceed 35 feet in height.

3. Total gross floor area per structure shall not exceed 10,000 SF.

4. Maximum Impervious Surface Ratio (ISR) shall not exceed 40%

5. Prohibited Uses: Any use not specifically listed above.

2. Execution by those parties with an interest in the affected property of an agreement providing for the implementation and enforcement of all the terms and conditions set forth above and the recording of said executed agreement in the Penobscot County Registry of Deeds by the property owner, a copy of said agreement being on file in the office of the City Clerk and incorporated herein by

SEPTEMBER 12, 2016

reference. In the event that said agreement is not so executed within ninety (90) days from the date of passage hereof, this Ordinance shall become null and void.

RECEIVED

MAY 11 2016

0/12012 and Planning

APPLICATION FOR LAND DEVELOPMENT CODE AND MAP AMENDMENT

TO: THE CITY COUNCIL AND
THE PLANNING BOARD OF BANGOR, MAINE:

DATE: 5/10/16

1. I(WE) JULIE B. SITES

2. of 810 STATE ST., BANGOR, ME
Address City or Post Office Telephone

hereby petition to amend the Land Development Code of the City of Bangor, Maine by reclassifying from
LDR district to the G1SD district for the property outlined in red on the maps
attached hereto, which are part of this application, and described as follows:

3. ADDRESS OF PROPERTY (if any) 900 State STREET
Total Area (acres or square feet) 6.22 ACRES

4. PROPERTY LOCATION (General location): Example - South side of
State Street 400 yards. East of Pine Street

5. LEGAL DESCRIPTION OF PROPERTY - Assessors Map No R7 Parcel 22

6. EXISTING USE: RESIDENTIAL

7. PROPOSED USE: PRIVATE NON-PROFIT

8. NAME AND ADDRESS OF OWNER OF RECORD: Name JULIE B. SITES

Address 810 STATE STREET

9. NAME AND ADDRESS OF CONTRACT OWNER (if such): SAME AS ABOVE

10. SIGNATURE OF OWNER OR CONTRACT OWNER: [Signature]

11. REPRESENTATIVE OF APPLICANT: Name Julie Sites
(if applicable)

Address _____

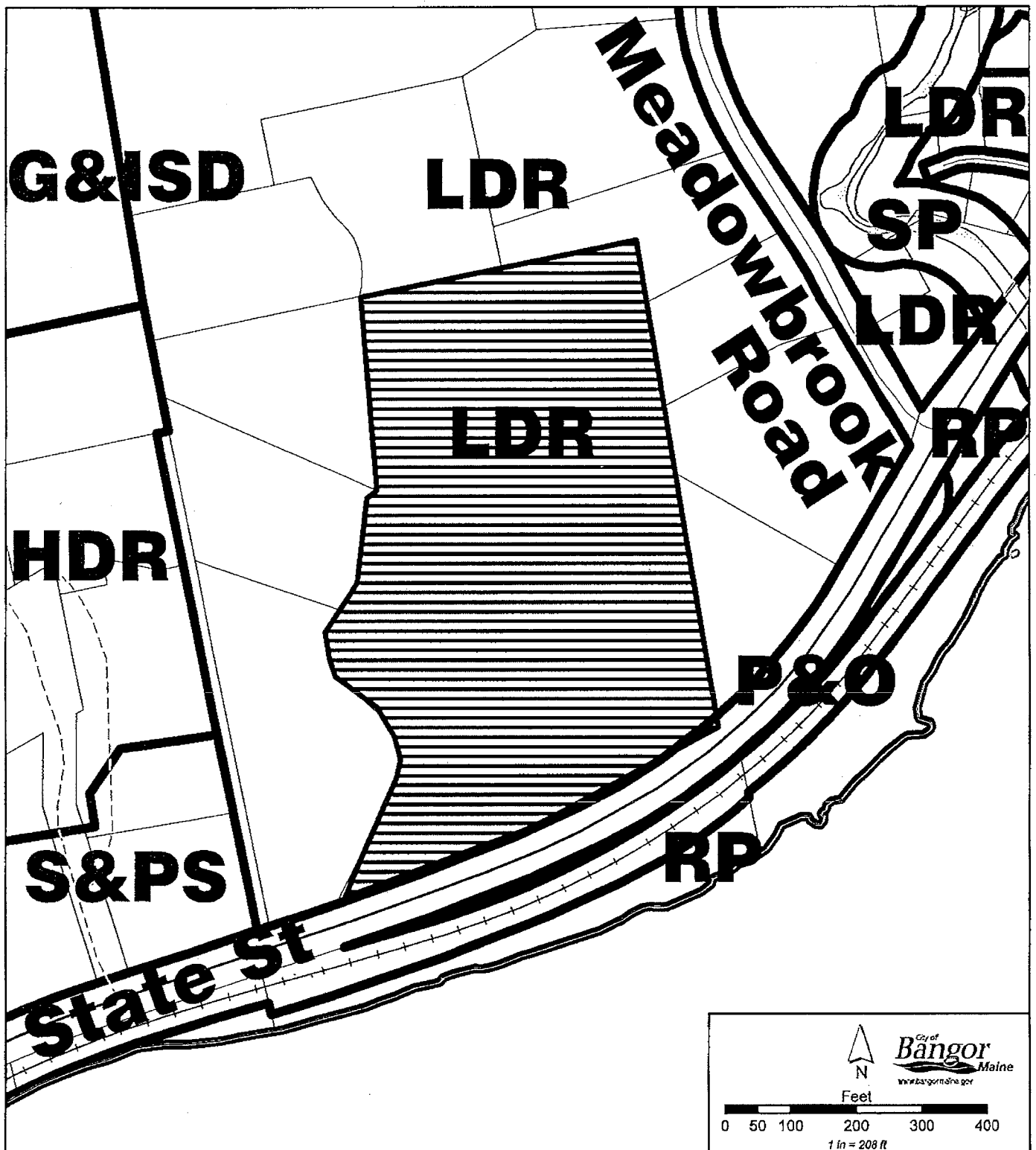
12. ATTACH ANY CONDITIONS PROPOSED FOR A CONTRACT ZONE REQUEST.

RETURN FORM & DUPLICATE TO PLANNING DIVISION, CITY HALL, BANGOR, ME.

<u>Application fee</u>	<u>Processing</u>	<u>Advertising</u>	<u>Total</u>
Zone Change (1/2 acre or less)	\$575.00	\$410.00*	\$ 985.00
Zone Change (in excess of 1/2 acre)	\$920.00	\$410.00*	<u>\$1,330.00</u> ST
Contract Zone Change - 5 conditions or less	\$1,377.00	\$509.00*	\$1,886.00
More than 5 conditions or 50 words	\$1,900.00	\$509.00**	\$To be determined

*Two Ads Required ** Advertising costs above this amount to be paid for by applicant.

PLEASE READ PROCESSING PROCEDURE ON REVERSE SIDE



 **LDR to G&ISD Contract**

900 Hammond Street
Map R71, Lot 22

RECEIVED

AUG 26 2016

Existing Zoning: Low Density Residential
Existing Use: Single Family Residential

C & ED and Planning

Proposed Zone Change: Government & Institutional Service District - Contract

Proposed Contract Zone Language:

1. Limited to the following Permitted uses:
 - a. Facilities operated by a private nonprofit organization such as a holistic wellness center which shall be primarily located in the former Dr. William C. Peters House and designated as a Historic Landmark under the Bangor Historic Preservation Ordinance.
2. New structures or additions shall not exceed 35 feet in height.
3. Total gross floor area per structure shall not exceed 10,000 SF.
4. Maximum Impervious Surface Ration (ISR) of 40%
5. Prohibited Uses: Any use not specifically noted above.

MEMORANDUM

DATE: September 21, 2016
TO: The Honorable City Council
FROM: David G. Gould, Planning Officer
SUBJECT: Amending Zoning Ordinance
900 State Street – Low Density Residential District (LDR)
to Contract Government and Institutional Service District
(G&ISD) – Council Ordinance 16-342

Please be advised that the Planning Board at its meeting on September 20, 2016, held a Public Hearing on the above contract zone change request.

Chairman Kenney opened the Public Hearing and asked the applicant or their representative to make a brief presentation of their application.

Ms. Julie Sites, owner of the property indicated the request was intended to reuse the big house and preserve the property.

Sandy Fortin, stated she represented Green Gem who operates a nonprofit center which seeks to preserve the historic property.

Claire Ackroyd, a landscape designer noted while some landscape work has been detrimental to the environment, they have embraced a concept where the landscape would be a part of the overall wellness plan. Ms. Ackroyd noted she had done previous work in the gardens originally designed by the Olmstead Bothers.

Sandy Cyrus a yoga instructor and schedule coordinator for Green Gem was in support of the concept.

Joe Harkins, 62 Meadowbrook Road, an abutting property owner indicated he thought the plan was a good one for the property. He noted he did not have a good deal of background in zoning but found the proposed plan was good.

Cindy Conner-Self, 50 Meadowbrook Road, was favorable to the plan and was happy to see the property stay open and provide linkages to nearby trails.

Sarah Barnard stated the property reflects Bangor's development over time.

Chairman Kenney asked if there were any present in opposition to the proposed rezoning request.

Mr. Al Holzwarth stated he lived at the corner of State Street and Meadowbrook Road for 48 years. He was concerned that the property may become multi-family buildings all uphill of his lot. As the Green Gem becomes more popular it will bring more traffic and noise to the building. He noted the contract conditions provided for other 10,000 square foot structures.

Mike D'Errico, 22 Meadowbrook Road, noted people had cited the stand of trees, he recalls when they were planted some years ago. The area is developed as single family homes and more development is not what he would favor.

Member Williams noted the contract language allowed for additional buildings.

Ms. Sites stated the current zoning, Low Density Residential, will allow many more structures be built.

Planning Officer Gould indicated that the contract rezoning allows the applicant to add additional limitations to the district than would otherwise not appear. The Board will need to make a recommendation to the City Council based on the contract before them. One key element not to be overlooked is the site does contain a valuable historic resource, which is not currently protected.

Chairman Kenney indicated that he understands what the petitioners are requesting but does not feel comfortable at this time with the contact conditions as proposed.

Member Williams made a motion to recommend the Council adopt C. O. # 16-342. Member Boothby seconded the Motion.

The Board voted two in favor and four opposed, a recommendation to not recommend the contract zoning change at 900 State Street from Low Density residential to contract Governmental and Service District – Council Ordinance #16-342.

COUNCIL ACTION

Item No. 16-343

Date: September 12, 2016

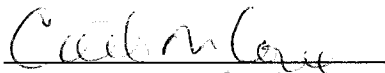
Item/Subject: RESOLVE, Authorizing the City Manager to Accept and Appropriate Grant Funds from the Maine Department of Health and Human Services – WIC Nutrition Program.

Responsible Department: Public Health and Community Services

Commentary: This resolve will accept and appropriate \$2,651,712.20 in grant funds for the Women, Infants, and Children Supplemental Nutrition Program (WIC). The Public Health and Community Service WIC Nutrition Program currently services a monthly average of 3,000 participants at their Bangor, Dexter, Dover, Corinth, Lincoln, Millinocket, Milo, Newport, and Greenville sites. The proposed agreement provides \$550,703.00 for administration, \$2,000.00 in Farmer's Market Administration, \$25,624.00 in WIC Breastfeeding Peer Counseling, and \$2,073,385.20 for food vouchers. The grant covers the period from October 1, 2016 through September 30, 2017. This was reviewed and recommended for approval at the September 7, 2016 Government Operations Committee meeting.

Department Head

Manager's Comments:



City Manager


Associated Information: Resolve

Budget Approval:



Finance Director

Legal Approval:



City Solicitor

Introduced for

☐ Passage
☒ First Reading
☐ Referral

Page __ of __

Assigned to Councilor Plourde



CITY OF BANGOR

(TITLE.) Resolve, Authorizing the City Manager to Accept and Appropriate a Grant from the Maine Department of Health and Human Services – WIC Nutrition Program.

BY THE CITY COUNCIL OF THE CITY OF BANGOR:

BE IT RESOLVED, that the City Manager is hereby authorized to accept and appropriate \$2,651,712.20 from the Maine Department of Health and Human Services to administer the WIC Nutrition Program in Penobscot and Piscataquis counties during the period 10/01/16 – 9/30/17.



**NEW
BUSINESS**